

412.110 Person jointly liable may require suit or execution issued -- Notice.

A surety, co-obligor, or cocontractor, or one (1) of several defendants to a judgment may, by notice in writing served in person within the state on the creditor or plaintiff, or, if the plaintiff is a nonresident or absent from the place of his residence for the period of thirty (30) days consecutively, upon his agent or his attorney, require him to sue or issue execution. If the creditor does not in good faith prosecute the suit with reasonable diligence, or if the plaintiff does not, within ten (10) days after judgment, sue out execution and in good faith prosecute the collection, the cosurety, co-obligor, cocontractor, or defendant shall be discharged from all liability, except for his proper share according to the then existing condition of the several obligors, contractors, or defendants. In any joint suit against the whole, or separate suit against him, judgment shall be rendered against him separately, and only for such proper share. The written notice required in this section shall not be waived, unless the waiver is in writing. No waiver of the notice shall be pleaded as a defense or given in evidence, unless it is in writing.

Effective: January 2, 1978

History: Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 415, effective January 2, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4668.