

425.011 Motion for writ of possession -- Required allegations.

- (1) Upon filing of the complaint or at any time prior to judgment, in an action to recover the possession of specific personal property, the plaintiff may apply pursuant to this chapter for a writ of possession by filing a written motion for the writ with the court in which the action is brought.
- (2) The motion shall be executed under oath and shall include all of the following:
 - (a) A showing of the basis of the plaintiff's claim and that the plaintiff is entitled to possession of the property claimed. If the basis of the plaintiff's claim is a written instrument, a copy of the instrument shall be attached.
 - (b) A showing that the property is wrongfully detained by the defendant, of the manner in which the defendant came into possession of the property, and, according to the best knowledge, information, and belief of the plaintiff the reason for the detention.
 - (c) A particular description of the property and a statement of its value. A description of property sufficient under KRS 355.9-108 shall meet the requirement of this section. The statement of value may be as to the worth of the property as a whole.
 - (d) A statement, according to the best knowledge, information and belief of the plaintiff, of the location of the property and if the property, or some part of it, is within a private place which may have to be entered to take possession a showing that there is probable cause to believe that such property is located there. Although such showing may be based on information and belief the judicial officer at the hearing herein provided must be presented with facts sufficient to show that the information and the informant are credible and reliable.
 - (e) A statement that the property has not been taken for a tax assessment, or fine, pursuant to a statute; or seized under an execution against the property of the plaintiff; or if so seized, that it is by statute exempt from such seizure.
- (3) The requirements of subsection (2) of this section may be satisfied by one (1) or more affidavits filed with the application.

Effective: July 1, 2001

History: Amended 2000 Ky. Acts ch. 408, sec. 185, effective July 1, 2001. -- Amended 1984 Ky. Acts ch. 158, sec. 1, effective July 13, 1984. -- Created 1976 Ky. Acts ch. 91, sec. 2.