

§ 26-9. Effect of failure of creditor to take action.

(a) If the holder or owner of the obligation refuses or fails, within 30 days from the service or receipt of such notice, to take appropriate action pursuant thereto, the following persons shall be discharged on any such note, bond, bill or other obligation to the extent that they are prejudiced thereby:

- (1) The surety, indorser or guarantor giving such notice, and
- (2) All co-sureties, co-indorsers or co-guarantors joining therein or adopting such notice as provided by G.S. 26-7, and
- (3) All the co-sureties, co-indorsers, or co-guarantors whose names or addresses such holder or owner of the obligation failed to disclose on demand as required by subsection (c) of G.S. 26-7.

(b) The fact that an instrument contains a provision waiving any defense of any surety, indorser or guarantor by reason of the extension of the time for payment does not prevent the operation of this section. Any such notice to the holder or owner of the obligation as is authorized by G.S. 26-7 may be given at or subsequent to the time such obligation is due or at or subsequent to the termination of a period of extension.

(c) The failure of any co-surety, co-indorser or co-guarantor to join in or adopt a notice to the holder or owner of the obligation as authorized by subsection (b) of G.S. 26-7 does not prevent such co-surety, co-indorser or co-guarantor from giving a separate notice as authorized by subsection (a) of G.S. 26-7. (1868-9, c. 232, s. 2; Code, s. 2098; Rev., s. 2847; C.S., s. 3969; 1951, c. 763, s. 3.)