

By: Representative Holland

To: Judiciary A

HOUSE BILL NO. 1253

1 AN ACT TO AMEND SECTION 11-35-23, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE LIMITATION ON WHICH GARNISHMENT JUDGMENTS ARE BASED;
3 AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 SECTION 1. Section 11-35-23, Mississippi Code of 1972, is
6 amended as follows:

7 11-35-23. (1) Except for wages, salary or other
8 compensation, all property in the hands of the garnishee belonging
9 to the defendant at the time of the service of the writ of
10 garnishment shall be bound by and subject to the lien of the
11 judgment, decree or attachment on which the writ shall have been
12 issued. If the garnishee shall surrender such property to the
13 sheriff or other officer serving the writ, the officer shall
14 receive the same and, in case the garnishment issued on a judgment
15 or decree, shall make sale thereof as if levied on by virtue of an
16 execution, and return the money arising therefrom to satisfy the
17 judgment; and if the garnishment issued on an attachment, the
18 officer shall dispose of the property as if it were levied upon by
19 a writ of attachment. And any indebtedness of the garnishee to
20 the defendant, except for wages, salary or other compensation,
21 shall be bound from the time of the service of the writ of
22 garnishment, and be appropriable to the satisfaction of the
23 judgment or decree, or liable to be condemned in the attachment.

24 (2) The court issuing any writ of garnishment shall show
25 thereon the amount of the claim of the plaintiff and the court
26 costs in the proceedings and should at any time during the
27 pendency of said proceedings in the court a judgment be rendered

28 for a different amount, then the court shall notify the garnishee
29 of the correct amount due by the defendant under said writ.

30 * * *

31 If the garnishee be indebted or shall become indebted to the
32 defendant for wages, salary or other compensation during the first
33 thirty (30) days after service of a proper writ of garnishment,
34 the garnishee shall pay over to the employee all of such
35 indebtedness, and thereafter, the garnishee shall retain and the
36 writ shall bind the nonexempt percentage of disposable earnings,
37 as provided by Section 85-3-4, for such period of time as is
38 necessary to accumulate a sum equal to the amount shown on the
39 writ as due the court, even if such period of time extends beyond
40 the return day of the writ. Unless the court otherwise authorizes
41 the garnishee to make earlier payments or releases, the garnishee
42 shall retain all sums collected pursuant to the writ and make only
43 one (1) payment into court at such time as the total amount shown
44 due on the writ has been accumulated, provided that, at least one
45 (1) payment per year shall be made to the court of the amount that
46 has been withheld during the preceding year. Should the
47 employment of the defendant for any reason be terminated with the
48 garnishee, then the garnishee shall not later than fifteen (15)
49 days after the termination of such employment, report such
50 termination to the court and pay into the court all sums as have
51 been withheld from the defendant's disposable earnings. If the
52 plaintiff in garnishment contest the answer of the garnishee, as
53 now provided by law in such cases, and proves to the court the
54 deficiency or untruth of the garnishee's answer, then the court
55 shall render judgment against the garnishee for such amount as
56 would have been subject to the writ had the said sum not been
57 released to the defendant; provided, however, any garnishee who
58 files a timely and complete answer shall not be liable for any
59 error made in good faith in determining or withholding the amount

60 of wages, salary or other compensation of a defendant which are
61 subject to the writ.

62 (4) Wages, salaries or other compensation as used in this
63 section shall mean wages, salaries, commissions, bonuses or other
64 compensation paid for employment purposes only.

65 (5) The circuit clerk may, in his or her discretion, spread
66 on the minutes of the county or circuit court, as the case may be,
67 an instruction that all garnishment defendants shall send all
68 garnishment monies to the attorney of record or in the case where
69 there is more than one (1) attorney of record, then to the
70 first-named attorney of record, and not to the clerk. The payment
71 schedule shall be the same as subsection (3) * * * of this
72 section.

73 SECTION 2. This act shall take effect and be in force from
74 and after July 1, 2001.