

By: Senator(s) Mettetal

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2996

1 AN ACT TO AMEND SECTION 11-35-9, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE FOR PERSONAL SERVICE OF WRITS OF GARNISHMENT; TO DEFINE
3 THE RIGHTS AND DUTIES OF BANKS AS GARNISHEES; TO DEFINE THE EFFECT
4 OF SERVICE OF WRITS OF GARNISHMENT UPON BANKS; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 11-35-9, Mississippi Code of 1972, is
8 amended as follows:

9 11-35-9. (1) Except as otherwise provided by Section
10 11-35-11, service of a writ of garnishment shall be made upon the
11 same persons as are provided in Rule 4(d) of the Mississippi Rules
12 of Civil Procedure, and a writ of garnishment, whether issued in a
13 case of attachment or on a judgment or decree, shall be served by
14 a process server or by the sheriff or the constable in the same
15 manner as is provided in Rule 4(c)(1) and (2) of the Mississippi
16 Rules of Civil Procedure * * *.

17 (2) When a writ of garnishment is served on a bank as
18 garnishee, the garnishee bank shall be afforded a reasonable time
19 to identify deposits in its hands which may be subject to the
20 writ, and deposits shall not become bound by or subject to the
21 lien of the judgment, decree or attachment on which the writ of
22 garnishment is issued until so identified by the garnishee bank.
23 Once deposits have become so bound, the writ of garnishment shall
24 not extend to additional deposits belonging to the defendant which
25 thereafter come into the hands of the garnishee bank.

26 (3) When a writ of garnishment is served on a bank as
27 garnishee, the garnishee bank shall have no duty to give notice of
28 the garnishment to the defendant or to any other person.

29 (4) No writ of garnishment shall be effective against a bank
30 unless the writ sets forth information sufficient to enable such
31 bank to identify the defendant on its records, such as the
32 defendant's complete name and address or the defendant's complete
33 name and tax identification number.

34 (5) When a writ of garnishment is directed to a bank as
35 garnishee:

36 (a) If it is served on an officer or any other
37 authorized person employed at a branch of the garnishee bank, the
38 writ shall be effective only as to deposits of the defendant
39 maintained at that branch.

40 (b) If it is directed to the garnishee bank's main
41 office in the state or to any authorized person employed at the
42 garnishee bank's main office in this state, the writ shall be
43 effective as to all deposits of the defendant maintained at the
44 garnishee bank and at any branch of the garnishee bank.

45 **SECTION 2.** The provisions of this act shall apply only to
46 attachment, execution or garnishment proceedings instituted on or
47 after July 1, 2005, and shall not defeat, extinguish or render
48 void any claim or defense existing with respect to attachment,
49 execution or garnishment proceedings instituted prior to that
50 date.

51 **SECTION 3.** This act shall take effect and be in force from
52 and after July 1, 2005.