

By: Senator(s) Mettetal

To: Judiciary, Division A

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 as
11 provided by Rule 4 of the Mississippi Rules of Civil Procedure,
12 and a writ of garnishment, whether issued in a case of attachment
13 or on a judgment or decree, shall be served by the sheriff or by a
14 process server as provided in Rule 4 of the Mississippi Rules of
15 Civil Procedure * * *.

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

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 the defendant's complete name and
31 address or the defendant's complete name and tax identification
32 number.

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

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

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

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

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