

By: Representative Guice

To: Banking and Financial Services; Judiciary A

HOUSE BILL NO. 1054

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 provided in Rule 4(d) of the Mississippi Rules of
12 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, consistent with Section 75-4-303,
19 shall be afforded a reasonable time to act thereon by identifying
20 accounts of the defendant which may be subject to the writ, and
21 the balances of such accounts shall not become bound by or subject
22 to the lien of the judgment, decree or attachment on which the
23 writ of garnishment is issued until so identified by the garnishee
24 bank. Once the balances of such accounts have become so bound,
25 the writ of garnishment shall not extend to additional deposits
26 thereafter made to such accounts.

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

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

36 (5) When a writ of garnishment is directed to a bank as
37 garnishee:

38 (a) If the writ is served at a branch of the garnishee
39 bank in this state, the writ shall be effective only as to
40 accounts of the defendant maintained at that branch.

41 (b) If the writ is served at the garnishee bank's main
42 office in this state, the writ shall be effective as to all
43 accounts of the defendant maintained at such main office and at
44 all branches of the garnishee bank in this state.

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, 2006, 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, 2006.