

By: Senator(s) Mettetal

To: Judiciary, Division A

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2668

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, consistent with Section 75-4-303,  
19 shall be afforded a reasonable time, or five (5) business days,  
20 whichever is less, to act thereon by identifying accounts of the  
21 defendant which may be subject to the writ, and the balances of  
22 such accounts shall not become bound by or subject to the lien of  
23 the judgment, decree or attachment on which the writ of  
24 garnishment is issued until so identified by the garnishee bank.  
25 Once the balances of such accounts have become so bound, the writ  
26 of garnishment shall not extend to additional deposits thereafter  
27 made to such accounts.

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

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

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

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

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

46       **SECTION 2.** The provisions of this act shall apply only to  
47 attachment, execution or garnishment proceedings instituted on or  
48 after July 1, 2006, and shall not defeat, extinguish or render  
49 void any claim or defense existing with respect to attachment,  
50 execution or garnishment proceedings instituted prior to that  
51 date.

52       **SECTION 3.** This act shall take effect and be in force from  
53 and after July 1, 2006.