

By: Senator(s) Mettetal

To: Judiciary, Division A

SENATE BILL NO. 2668
(As Passed the Senate)

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) Each bank shall provide the Department of Banking and
38 Consumer Finance the names and addresses of designated agents for
39 service of writs of garnishment. The Department of Banking and
40 Consumer Finance shall maintain a record of agents designated by
41 banks to receive service of writs of garnishment. To be effective
42 against a bank garnishee, a writ of garnishment shall be served
43 upon the bank's agent as designated in that record.

44 (6) As used in this section, the term "bank" means an
45 organization that is engaged in the business of banking and shall
46 include commercial banks, savings banks, savings and loan
47 associations, and credit unions.

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

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