

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.