

2018 Regular Session

SENATE BILL NO. 257

BY SENATOR MILKOVICH

CIVIL PROCEDURE. Provides relative to appellate records. (gov sig)

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AN ACT

To amend and reenact Code of Civil Procedure Arts. 2126(A) through (D) and 2128, relative to appeal; to provide relative to the record on appeal; to provide certain procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Arts. 2126(A) through (D) and 2128 are hereby amended and reenacted to read as follows:

Art. 2126. Payment of costs

A. The clerk of the trial court, immediately after the order of appeal has been granted, shall estimate the cost of the preparation of the record on appeal, including the fee of the court reporter for preparing the transcript and the filing fee required by the appellate court. The clerk shall send ~~notices~~ **a notice** of the estimated costs by certified mail to the appellant and by first class mail to the appellee.

B. Within ~~twenty days of the mailing of notice,~~ the appellant shall pay **thirty days after receipt of the notice of estimated costs, the appellant shall either:**

(1) Pay the amount of the estimated costs to the clerk. The trial court may grant one extension of the period for paying the amount of the estimated costs for not

1 more than an additional twenty days upon written motion showing good cause for
2 the extension.

3 **(2) File a written redesignation of appellate record as provided in Article**
4 **2128.**

5 C. The appellant may question the excessiveness of the estimated costs by
6 filing a written application for reduction in the trial court within the first ~~twenty-day~~
7 **thirty-day** time limit, and the trial court may order reduction of the estimate upon
8 proper showing. If an application for reduction has been timely filed, the appellant
9 shall have twenty days to pay the costs beginning from the date of the action by the
10 trial court on application for reduction.

11 **D. A redesignation of the appellate record may either reduce or increase**
12 **the appellate record, which shall have a corresponding reduction or increase of**
13 **appellate costs.**

14 * * *

15 Art. 2128. Same; determination of content

16 **A.** The form and content of the record on appeal shall be in accordance with
17 the rules of the appellate court, except as provided in the constitution and as provided
18 in **this Article** and Article 2128.1.

19 **B.** ~~However, within three days, exclusive of holidays, after taking the appeal~~
20 **Within thirty days, exclusive of holidays, after receipt of notice of the estimated**
21 **costs of appeal,** the appellant may designate in a writing filed with the trial court
22 such portions of the record which he desires to constitute the record on appeal.
23 Within ~~five~~ **thirty** days, exclusive of holidays, after service of a copy of this
24 designation on the other party, that party may also designate in a writing filed with
25 the trial court such other portions of the record as he considers necessary. In such
26 cases the clerk shall prepare the record on appeal as so directed, but a party or the
27 trial court may cause to be filed thereafter any omitted portion of the record as a
28 supplemental record. **Each party shall be responsible for costs of that portion of**
29 **the record which that party designates or, if a party has an objection, the court**

1 **may determine the reasonable costs of the record to be borne by each party.**

2 When no designation is made, the record shall be a transcript of all the proceedings
3 as well as all documents filed in the trial court.

4 Section 2. This Act shall become effective upon signature by the governor or, if not
5 signed by the governor, upon expiration of the time for bills to become law without signature
6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
8 effective on the day following such approval.

The original instrument was prepared by Xavier I. Alexander. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jerry G. Jones.

DIGEST

SB 257 Engrossed

2018 Regular Session

Milkovich

Present law relative to civil appeals, provides that the clerk shall send notice of cost by certified mail immediately after the order of appeal is granted. Further provides that within 20 days of mailing of notice, appellant shall pay estimated costs to the clerk.

Proposed law provides that within 30 days after receipt of the notice of estimated costs the appellant shall pay the estimated costs to the clerk or file a written redesignation of appellate record.

Proposed law provides that each party shall be responsible for costs of that portion of the record which the party designates or, if a party has an objection, the court may determine the reasonable costs of the record to be borne by each party.

Present law provides that within three days, exclusive of holidays, after taking an appeal, the appellant may designate in writing, filed with the court, portions of the record which he desires to constitute the record on appeal.

Proposed law provides that within 30 days, exclusive of holidays, after receipt of notice of the estimated costs of appeal, the appellant may designate in writing, filed with the court, portions of the record which he desires to constitute the record on appeal.

Present law provides that within 5 days, exclusive of holidays, after a service of a copy of the appellant's designation another party may also designate in a writing filed with the trial court such other portions of the record as he considers necessary. Proposed law changes 5 days to 30 days.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends C.C.P. Arts. 2126(A)-(D) and 2128)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Added that, if there is an objection, the court may determine the reasonable costs of the record to be borne by each party.
2. Changed 5 days to 30 days.