SLS 18RS-636

ORIGINAL

2018 Regular Session

SENATE BILL NO. 257

BY SENATOR MILKOVICH

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

1	AN ACT
2	To amend and reenact Code of Civil Procedure Arts. 2126(A) through (D) and 2128, relative
3	to appeal; to provide relative to the record on appeal; to provide certain procedures;
4	and to provide for related matters.
5	Be it enacted by the Legislature of Louisiana:
6	Section 1. Code of Civil Procedure Arts. 2126(A) through (D) and 2128 are hereby
7	amended and reenacted to read as follows:
8	Art. 2126. Payment of costs
9	A. The clerk of the trial court, immediately after the order of appeal has been
10	granted, shall estimate the cost of the preparation of the record on appeal, including
11	the fee of the court reporter for preparing the transcript and the filing fee required by
12	the appellate court. The clerk shall send notices a notice of the estimated costs by
13	certified mail to the appellant and by first class mail to the appellee.
14	B. Within twenty days of the mailing of notice, the appellant shall pay thirty
15	days after receipt of the notice of estimated costs, the appellant shall either:
16	(1) Pay the amount of the estimated costs to the clerk. The trial court may
17	grant one extension of the period for paying the amount of the estimated costs for not

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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	<u>2128.</u>	
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	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	<u>A.</u> 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 <u>this Article</u> and Article 2128.1.	
19	<u>B.</u> 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 days, exclusive of holidays, after service of a copy of this designation	
24	on the other party, that party may also designate in a writing filed with the trial court	
25	such other portions of the record as he considers necessary. In such cases the clerk	
26	shall prepare the record on appeal as so directed, but a party or the trial court may	
27	cause to be filed thereafter any omitted portion of the record as a supplemental	
28	record. Each party shall be responsible for costs of that portion of the record	
29	which that party designates. When no designation is made, the record shall be a	

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transcript of all the proceedings as well as all documents filed in the trial court.
Section 2. This Act shall become effective upon signature by the governor or, if not
signed by the governor, upon expiration of the time for bills to become law without signature
by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
vetoed by the governor and subsequently approved by the legislature, this Act shall become
effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Xavier I. Alexander.

	DIGEST	
SB 257 Original	2018 Regular Session	Milkovich

<u>Present law</u> 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.

<u>Proposed law</u> 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.

<u>Proposed law</u> provides that each party shall be responsible for costs of that portion of the record which the party designates.

<u>Present law</u> 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.

<u>Proposed law</u> 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.

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

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