
HOUSE COMMITTEE AMENDMENTS

2026 Regular Session

Amendments proposed by House Committee on Civil Law and Procedure to Original House
Bill No. 142 by Representative Muscarello

1 AMENDMENT NO. 1

2 On page 1, line 2, after "Articles" and before "1426(A)(introductory paragraph)" insert
3 "561,"

4 AMENDMENT NO. 2

5 On page 1, line 3, after "1572," and before "1841" insert "1702(C),"

6 AMENDMENT NO. 3

7 On page 1, line 3, delete "2083(B), and 4922" and insert "2083(B), 2126, 2128, 2166(F),
8 2167(D), and 4922"

9 AMENDMENT NO. 4

10 On page 1, line 7, after "Statutes;" insert "to provide with respect to abandonment;"

11 AMENDMENT NO. 5

12 On page 1, line 7, after "trial;" insert "to provide with respect to default judgments;"

13 AMENDMENT NO. 6

14 On page 1, at the beginning of line 9, delete "respect to notice of trial;" and insert "respect
15 to payment of costs and designation of the record on appeal; to provide with respect to
16 transmission of notice;"

17 AMENDMENT NO. 7

18 On page 1, line 13, after "Articles" and before "1426(A)(introductory paragraph)" insert
19 "561,"

20 AMENDMENT NO. 8

21 On page 1, line 14, after "1572," and before "1841" insert "1702(C),"

22 AMENDMENT NO. 9

23 On page 1, line 14, delete "2083(B), and 4922" and insert "2083(B), 2126, 2128, 2166(F),
24 2167(D), and 4922"

25 AMENDMENT NO. 10

26 On page 1, between lines 15 and 16, insert the following:

27 "Art. 561. Abandonment in trial and appellate court

28 A.(1) An action is abandoned when the parties fail to take any step in its
29 prosecution or defense in the trial court for a period of three years, ~~unless it is a~~
30 ~~succession proceeding;~~

31 (a) ~~Which has been opened;~~

32 (b) ~~In which an administrator or executor has been appointed; or~~

1 (c) In which a testament has been probated.

2 (2) This ~~provision Article~~ shall be operative without formal order, ~~but, on ex~~
 3 ~~parte motion of any party or other interested person by affidavit that states that no~~
 4 ~~step has been timely taken in the prosecution or defense of the action, the trial court~~
 5 ~~shall enter a formal order of dismissal as of the date of its abandonment. The sheriff~~
 6 ~~shall serve the order in the manner provided in Article 1314 and shall execute a~~
 7 ~~return pursuant to Article 1292. A step in the prosecution or defense in the trial court~~
 8 ~~shall interrupt the abandonment period. After the three-year abandonment period has
 9 ~~expired, the defendant may renounce the defense of abandonment.~~~~

10 (3) ~~A motion to set aside a dismissal may be made only within thirty days of~~
 11 ~~the date of the sheriff's service of the order of dismissal. If the trial court denies a~~
 12 ~~timely motion to set aside the dismissal, the clerk of court shall give notice of the~~
 13 ~~order of denial pursuant to Article 1913(A) and shall file a certificate pursuant to~~
 14 ~~Article 1913(D). Any formal discovery authorized by this Code, whether or not filed~~
 15 ~~of record, including the taking of a deposition with or without formal notice,~~
 16 ~~constitutes a step in the prosecution or defense of an action against all parties on~~
 17 ~~whom the discovery was served or who were in attendance or represented at the~~
 18 ~~deposition.~~

19 (4) ~~An appeal of an order of dismissal may be taken only within sixty days~~
 20 ~~of the date of the sheriff's service of the order of dismissal. An appeal of an order of~~
 21 ~~denial may be taken only within sixty days of the date of the clerk's mailing of the~~
 22 ~~order of denial.~~

23 ~~B.(1) Any formal discovery as authorized by this Code and served on all~~
 24 ~~parties whether or not filed of record, including the taking of a deposition with or~~
 25 ~~without formal notice, shall be deemed to be a step in the prosecution or defense of~~
 26 ~~an action. Any party or other interested person may file an ex parte motion to dismiss~~
 27 ~~based on abandonment and shall attach to the motion to dismiss an affidavit of the~~
 28 ~~mover or the mover's attorney of record certifying all of the following:~~

29 (a) ~~The three-year abandonment period has expired.~~

30 (b) ~~No timely step in the prosecution or defense of the action has been taken~~
 31 ~~in accordance with Subparagraph (A)(2) or (3) of this Article.~~

32 (c) ~~No renunciation has occurred in accordance with Subparagraph (A)(2) of~~
 33 ~~this Article.~~

34 (2) ~~The affidavit shall also include a list of all pleadings, documents, or~~
 35 ~~judgments that have been filed in the record during the three years preceding the date~~
 36 ~~on which the mover claims that the abandonment period expired. The mover shall~~
 37 ~~also list and attach all written communication pertaining to the action between the~~
 38 ~~mover and any adverse party or their attorneys of record in the one year preceding~~
 39 ~~the date on which the mover claims that the abandonment period expired.~~

40 ~~C. The court shall enter an ex parte judgment of dismissal without prejudice~~
 41 ~~as of the date of the abandonment of the action if the record confirms and the~~
 42 ~~mover's accompanying affidavit attests to all of the following:~~

43 (1) ~~The three-year abandonment period has expired.~~

44 (2) ~~No timely step in the prosecution or defense of an action has been taken~~
 45 ~~in accordance with Subparagraph (A)(2) or (3) of this Article.~~

46 (3) ~~The defendant has not renounced the defense of abandonment in~~
 47 ~~accordance with Subparagraph (A)(2) of this Article.~~

48 (4) ~~No pleadings, documents, or judgments have been filed in the record~~
 49 ~~during the three years immediately preceding the expiration of the abandonment~~
 50 ~~period.~~

51 (5) ~~There has been no written communication pertaining to the action~~
 52 ~~between the mover and any adverse party or their attorneys of record during the last~~
 53 ~~year of the abandonment period.~~

54 D. ~~If the mover's affidavit certifies that any pleadings, documents, or~~
 55 ~~judgments have been filed in the record during the three years preceding the~~
 56 ~~expiration of the abandonment period or that there has been written communication~~
 57 ~~pertaining to the action between the mover and any adverse party or their attorneys~~
 58 ~~of record during the one year preceding the expiration of the abandonment period,~~

1 the court shall either sign the judgment of dismissal ex parte or set the motion to
2 dismiss for a contradictory hearing.

3 E. The sheriff shall serve the ex parte judgment of dismissal in accordance
4 with Article 1314 and shall execute a return pursuant to Article 1292.

5 F. If an ex parte judgment of dismissal is granted, a motion to set aside the
6 dismissal may be filed within thirty days after the date of the sheriff's service of the
7 judgment of dismissal. At the hearing to set aside the dismissal, the burden of proof
8 rests with the mover of the original motion to dismiss based on abandonment. If the
9 trial court denies a timely motion to set aside the dismissal, the clerk of court shall
10 send notice of the order of denial pursuant to Article 1913(A) and shall file a
11 certificate pursuant to Article 1913(D).

12 G.(1) An appeal of a judgment of dismissal rendered ex parte may be taken
13 within sixty days after the date of the sheriff's service of the judgment of dismissal
14 pursuant to Paragraph E of this Article.

15 (2) An appeal of a judgment of dismissal rendered after a contradictory
16 hearing may be taken within sixty days after the clerk's transmission of that
17 judgment.

18 (3) An appeal of a denial of the motion to set aside a dismissal filed pursuant
19 to Paragraph F of this Article may be taken within sixty days after the clerk's
20 transmission of the order of denial.

21 ~~C.~~ H. An appeal is abandoned when the parties fail to take any step in its
22 prosecution or disposition for the period provided in the rules of the appellate court.

23 I. The granting of a motion to set aside a judgment of dismissal based on
24 abandonment and the reversal of a judgment of dismissal on appeal shall each
25 constitute a step in the prosecution or defense of an action.

26 J. For the purposes of this Article, "transmission" means the sending of notice
27 via the United States Postal Service, a commercial courier, or electronic mail.

28 K. This Article does not apply to succession proceedings.

29 Comments – 2026

30 (a) The amendments to Subparagraph (A)(2) of this Article retain the rule that
31 abandonment is operative without formal order. The amendments also adopt current
32 jurisprudential rules providing that a step in the prosecution or defense of an action
33 interrupts the three-year abandonment period and that, after the three-year
34 abandonment period has expired, the defendant may renounce the defense of
35 abandonment. See *Foundation Elevation & Repair, LLC v. Miller*, 408 So. 3d 893
36 (La. 2025).

37 (b) Subparagraph (B)(1) of this Article is new and requires that a more
38 detailed affidavit be included with the ex parte motion to dismiss based on
39 abandonment.

40 (c) Paragraph C of this Article now requires the court to sign an ex parte
41 judgment of dismissal without prejudice if the mover's affidavit attests to all of the
42 following: the abandonment period has expired; no timely step in the prosecution or
43 defense of the action has occurred; the defendant has not renounced the defense of
44 abandonment; no pleadings, documents, or judgments have been filed in the record
45 during the three years immediately preceding the expiration of the abandonment
46 period; and there has been no written communication pertaining to the action
47 between the mover and any adverse party or their attorneys of record during the year
48 preceding the expiration of the abandonment period.

49 (d) Paragraph D of this Article is new and requires the court to either sign a
50 judgment of dismissal ex parte or set the motion to dismiss for a contradictory
51 hearing if the mover's affidavit indicates that pleadings, documents, or judgments
52 have been filed in the record during the three-year abandonment period or that there
53 has been written communication pertaining to the action between the mover and any
54 adverse party or their attorneys of record during the year immediately preceding the
55 expiration of the abandonment period.

1 (e) Paragraph F of this Article establishes a new rule that the burden of proof
2 at a hearing on a motion to set aside a dismissal rests upon the mover of the initial
3 motion to dismiss based on abandonment.
4 * * *

5 AMENDMENT NO. 11

6 On page 3, between lines 4 and 5, insert the following:

7
8 "Art. 1702. Default judgment
9 * * *

10 C. In those proceedings in which the sum due is on an open account or a
11 promissory note, other negotiable instrument, or other conventional obligation, or a
12 deficiency judgment derived therefrom, including those proceedings in which one
13 or more mortgages, pledges, or other security for the open account, promissory note,
14 negotiable instrument, conventional obligation, or deficiency judgment derived
15 therefrom is sought to be enforced, maintained, or recognized, or in which the
16 amount sought is that authorized by R.S. 9:2782 for a check dishonored for
17 nonsufficient funds, a hearing in open court shall not be required unless the ~~judge~~
18 court, in ~~his~~ its discretion, directs that ~~such a~~ the hearing be held. The plaintiff shall
19 submit to the clerk of court the proof required by law and the ~~original and not less~~
20 ~~than one copy of the~~ proposed default judgment. The ~~judge~~ court shall, within
21 seventy-two hours ~~of~~ after receipt of ~~such~~ the submission from the clerk of court,
22 sign the proposed default judgment or direct that a hearing be held. ~~The~~ Before the
23 default judgment is signed, the clerk of court shall certify that no answer or other
24 pleading has been filed by the defendant. The minute clerk shall make an entry
25 showing the dates of receipt of proof, review of the record, and rendition of the
26 default judgment. A certified copy of the signed default judgment shall be sent to the
27 plaintiff by the clerk of court, and notice of the signing of the default judgment shall
28 be given ~~as provided in~~ in accordance with Article 1913.
29 * * *

30 AMENDMENT NO. 12

31 On page 4, between lines 19 and 20, insert the following:

32 "Art. 2126. Payment of costs
33 A. ~~The clerk of the trial court, immediately after~~ After the order of appeal has
34 been granted, ~~the clerk of the trial court~~ shall estimate the cost of the preparation of
35 the record on appeal, including the fee of the court reporter for preparing the
36 transcript and the filing fee required by the appellate court. The clerk shall ~~send~~
37 transmit notices of the estimated costs ~~by certified mail~~ to the appellant and ~~by first~~
38 ~~class mail to the~~ appellee.
39 B. ~~Within twenty days of the mailing of notice~~ If the parties have not
40 designated the record on appeal pursuant to Article 2128, the appellant shall, within
41 twenty days after transmission of the notice of the estimated costs, pay the amount
42 of the estimated costs to the clerk. The trial court may grant one extension of the
43 period for paying the amount of the estimated costs for not more than an additional
44 twenty days upon written motion showing good cause for the extension.
45 C. If the parties have designated the record on appeal pursuant to Article
46 2128, the clerk shall transmit a revised notice of the estimated costs to the appellant
47 and appellee. The appellant shall, within twenty days after transmission of the
48 revised notice of estimated costs, pay the amount of the estimated costs to the clerk.
49 The trial court may grant one extension of the period for paying the amount of the
50 revised estimated costs for not more than an additional twenty days upon written
51 motion showing good cause for the extension.
52 D. The appellant may question the excessiveness of the estimated costs by
53 filing a written application motion for reduction in the trial court within the first
54 twenty-day time limit, ~~and the~~ if the record has not been designated pursuant to

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 Article 2128, or within twenty days after transmission of the revised notice of
2 estimated costs if the record has been designated pursuant to Article 2128. The trial
3 court may order reduction of the estimate upon proper showing. If an application the
4 motion for reduction has been timely filed, the appellant shall have twenty days to
5 pay the costs beginning from the date of the action by the trial court on application
6 the motion for reduction.

7 ~~D. E.~~ After the preparation of the record on appeal has been completed, the
8 clerk of the trial court shall, as the situation may require, either refund to the
9 appellant the difference between the estimated costs and the actual costs, if the
10 estimated costs exceed the actual costs, or ~~send a transmit~~ notice by certified mail to
11 the appellant of the amount of additional costs due, if the actual costs exceed the
12 estimated costs. If the payment of additional costs is required, the appellant shall pay
13 the amount of additional costs within twenty days ~~of the mailing~~ after transmission
14 of the notice.

15 E. F. If the appellant fails to pay the estimated costs, or the difference between
16 the estimated costs and the actual costs, within the time specified, the trial judge, on
17 his own motion or upon motion by the clerk or by any party, and after a hearing,
18 shall do one of the following:

19 (1) Enter a formal order of dismissal of the appeal on the grounds of
20 abandonment; ~~or.~~

21 (2) Grant a ~~ten-day~~ ten-day period within which costs ~~must~~ shall be paid in
22 full, in default of which the appeal is dismissed as abandoned.

23 F. G. If the appellant pays the costs required by this Article, the appeal ~~may~~
24 shall not be dismissed because of the passage of the return day without an extension
25 being obtained or because of an untimely lodging of the record on appeal.

26 H. For the purposes of this Article, "transmit" means the sending of notice
27 via certified mail, electronic mail to the email address designated by counsel or the
28 party, or commercial courier. The sending of notice by electronic means is complete
29 upon transmission, provided that the sender receives an electronic confirmation of
30 delivery.

31 Comments – 2026

32 Requirements relative to the transmission of the notice for the payment of
33 estimated costs are adapted from the service requirements set forth in Article
34 1313(C) applicable to pleadings and orders that set a court date and from Article
35 2166(F) defining "transmission of notice" with respect to the appellate court.

36 * * *

37 Art. 2128. Same; determination of content

38 The form and content of the record on appeal shall be in accordance with the
39 rules of the appellate court, except as provided in the ~~constitution~~ Constitution of
40 Louisiana and as provided in Article 2128.1. ~~However, within three days, exclusive~~
41 ~~of holidays, after taking the appeal~~ Within ten days after transmission of the notices
42 of estimated costs by the clerk of court as provided in Article 2126, however, the
43 appellant may designate in a writing by written notice filed with the trial court ~~such~~
44 the portions of the record which he that the appellant desires to constitute the record
45 on appeal. Within ~~five~~ fourteen days, ~~exclusive of holidays,~~ after service of a copy
46 of this designation on the other party, that party may also designate ~~in a writing by~~
47 written notice filed with the trial court ~~such~~ other portions of the record as ~~he~~ the
48 party considers necessary. In ~~such~~ those cases, the clerk shall prepare the record on
49 appeal as so directed, but a party or the trial court may cause to be filed thereafter
50 any omitted portion of the record as a supplemental record. When no designation is
51 made, the record shall be a transcript of all of the proceedings as well as all
52 documents filed in the trial court.

53 * * *

54 Art. 2166. Court of appeal judgment rehearing; finality; stay

55 * * *

56 F. For the purposes of this Article, "transmission of the notice" means the
57 sending of the notice via the United States Postal Service; or electronic mail; ~~or~~
58 facsimile.

59 * * *

1 Art. 2167. Supreme court judgment rehearing; finality; stay
2 * * *

3 D. For the purposes of this Article, "transmission of the notice" means the
4 sending of the notice via the United States Postal Service; or electronic mail,~~or~~
5 ~~facsimile.~~
6 * * *"

7 AMENDMENT NO. 13

8 On page 6, after line 22, add the following:

9 "Section 5. The provisions of Code of Civil Procedure Article 561 as
10 amended by Section 1 of this Act shall have prospective application only and shall
11 apply to motions to dismiss based on abandonment filed on or after the effective date
12 of this Act."

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.