

Amend CSHB 1038 on page 1, between lines 4 and 5, by inserting the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 27.004(d), Property Code, is amended to read as follows:

(d) The court or arbitration tribunal shall abate [~~dismiss~~] an action governed by this chapter if Subsection (c) does not apply and the court or tribunal, after a hearing, finds that the contractor is entitled to abatement [~~dismissal~~] because the claimant failed to comply with the requirements of Subtitle D, Title 16, if applicable, failed to provide the notice or failed to give the contractor a reasonable opportunity to inspect the property as required by Subsection (a), or failed to follow the procedures specified by Subsection (b). An action is automatically abated [~~dismissed~~] without the order of the court or tribunal beginning on the 11th day after the date a motion to abate [~~dismiss~~] is filed if the motion:

(1) is verified and alleges that the person against whom the action is pending did not receive the written notice required by Subsection (a), the person against whom the action is pending was not given a reasonable opportunity to inspect the property as required by Subsection (a), or the claimant failed to follow the procedures specified by Subsection (b) or Subtitle D, Title 16; and

(2) is not controverted by an affidavit filed by the claimant before the 11th day after the date on which the motion to abate [~~dismiss~~] is filed.