

Amend **HB 1951** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Chapter 541, Insurance Code, is amended by adding Subchapter D-1 to read as follows:

SUBCHAPTER D-1. DISPUTES SUBJECT TO ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

Sec. 541.181. PRIVATE ACTION SUBJECT TO ALTERNATIVE DISPUTE RESOLUTION PROCEDURE. (a) In this subchapter:

(1) "Alternative dispute resolution procedure" means a procedure included in an insurance policy to resolve disputes arising under the policy, including arbitration, mediation, and appraisal procedures.

(2) "Residential property insurance" has the meaning assigned by Section 544.352.

(b) Before filing a private action for damages under this chapter, an insured who disputes the amount of a loss of or damage to property covered by a residential property insurance policy that includes an alternative dispute resolution procedure must:

(1) send the insurer written notice of the dispute;
and

(2) comply with all applicable policy terms and conditions with respect to the dispute.

(c) The insurer shall initiate the alternative dispute resolution procedure included in the residential property insurance policy with respect to the dispute not later than:

(1) the 45th day after the date the insurer receives the notice required by Subsection (b); or

(2) an earlier date provided by the policy.

(d) If the insurer does not timely initiate an alternative dispute resolution procedure as required by Subsection (c), the insured may, to the extent otherwise authorized by this chapter, initiate a private action for damages under this chapter.

Sec. 541.182. ENFORCEMENT AND REMEDIES. (a) If a court determines that a party has initiated a private action for damages in violation of Section 541.181, the court shall:

(1) abate the action and order the parties to

participate in the alternative dispute resolution procedure to the extent required by this section; and

(2) subject to this section, award to the insurer the insurer's court costs and reasonable and necessary attorney's fees for which the party who initiated the action and each attorney representing that party in the action are jointly and severally liable.

(b) An insurer may not execute, collect, or enforce an award under Subsection (a)(2) before initiating the alternative dispute resolution procedure.

(c) If an insurer does not comply with a court order under this section by initiating the alternative dispute resolution procedure before the 45th day after the date the order is entered:

(1) the insured is not required to participate in the alternative dispute resolution procedure and the action may proceed in court; and

(2) the insured and the insured's attorney are not required to pay court costs and attorney's fees awarded under Subsection (a)(2).

(d) An insurer may not recover court costs and attorney's fees awarded under Subsection (a)(2) out of money awarded to a person who prevails in an alternative dispute resolution procedure.

Sec. 541.183. NOTICE OF ALTERNATIVE DISPUTE RESOLUTION REQUIRED. On receipt of written notice from the insured of a dispute arising under the policy, an insurer shall provide an insured under a residential property insurance policy that includes an alternative dispute resolution procedure with all necessary information relating to the prerequisites for bringing a private action for damages in compliance with the policy and this subchapter.

SECTION _____. Section 542.058(b), Insurance Code, is amended to read as follows:

(b) Subsection (a) does not apply in a case in which it is found as a result of arbitration or litigation that a claim received by an insurer is invalid and should not be paid by the insurer or in a case in which an insurer and a claimant participate in an alternative dispute resolution procedure included in the relevant

insurance policy.

SECTION _____. Subchapter D-1, Chapter 541, Insurance Code, as added by this Act, and Section 542.058(b), Insurance Code, as amended by this Act, apply only to a residential property insurance policy delivered, issued for delivery, or renewed on or after January 1, 2012. A residential property insurance policy delivered, issued for delivery, or renewed before January 1, 2012, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.