

BILL ANALYSIS

Senate Research Center

S.B. 833
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Business & Commerce
6/22/2023
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Some insurance companies are pressured to refuse to insure the fossil fuel industry, and several energy companies report that it is becoming increasingly difficult to obtain insurance. Others report that they are denied insurance coverage based on their political beliefs. Insurance companies are highly skilled in evaluating risk, and these external pressures on their ability to make business decisions may negatively affect both insurance companies and those seeking coverage.

C.S.S.B. 833 seeks to combat this issue by prohibiting any insurance company doing business in Texas from using environmental, social, or governance factors as a basis for ratemaking or in making a coverage decision.

S.B. 833 amends current law relating to consideration by insurers of certain prohibited criteria for ratemaking.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 5, Insurance Code, by adding Chapter 565, as follows:

CHAPTER 565. PROHIBITED RATING CRITERIA

Sec. 565.001. PURPOSE. (a) Provides that the purpose of this chapter is to regulate the use of environmental, social, or governance models, scores, factors, or standards to define acts or practices that may be unfair discrimination in the business of insurance in this state.

(b) Provides that the legislature finds that there are numerous entities that have developed different environmental, social, or governance models, scores, factors, or standards that are used to:

(1) evaluate financial risks for investments in certain businesses or industries; or

(2) encourage or discourage business dealings or investments with certain types of businesses or industries.

(c) Provides that the rating of certain businesses or risks in this state without an ordinary insurance business purpose, to the extent that the use of such models, scores, factors, or standards are not based on sound actuarial principles, or do not bear a reasonable relationship to the expected loss and expense experience related to insurance risks, may adversely affect the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of this state or a portion of this state.

Sec. 565.002. DEFINITION. Defines "insurer."

Sec. 565.003. APPLICABILITY OF CHAPTER. (a) Provides that this chapter, except as provided by this section, applies only to insurance policies issued and delivered by an insurer in this state.

(b) Provides that this chapter does not require the filing of rates for any line, type of insurer, or type of insurance business that is not specifically required by statute to file rates with the Texas Department of Insurance (TDI).

(c) Provides that this chapter does not apply to fidelity, guaranty, and surety bonds or to crop insurance.

Sec. 565.004. CONSTRUCTION OF CHAPTER. (a) Requires that this chapter be construed and applied to promote the underlying purposes as provided by Section 565.001.

(b) Prohibits this chapter from being construed or applied to require an insurer to write any line or type of business that the insurer does not write or a material change in the insurer's current business plans.

(c) Provides that nothing in this chapter is intended to create any type of private cause of action or independent basis in a civil or criminal proceeding.

(d) Provides that nothing in this chapter is intended to prohibit the use of information that is relevant and related to the risk being insured even if that information is authorized to also be used or considered in developing an environmental, social, or governance model, score, factor, or standard.

Sec. 565.005. PROHIBITED CRITERIA. Prohibits an insurer, except as provided by Section 565.006, from using an environmental, social, or governance model, score, factor, or standard to charge a rate different than the rate charged to another business or risk in the same class for essentially the same hazard.

Sec. 565.006. EXCEPTION. Provides that an insurer does not violate Section 565.005 if the insurer's actions are based on an ordinary insurance business purpose, including the use of sound actuarial principles, or financial solvency considerations reasonably related to loss experience for the different types of risks and coverages made available by a particular insurer.

Sec. 565.007. REGULATORY ACTION. Provides that nothing in this chapter is intended to authorize TDI to adopt any rule, model, or standard requiring an insurer to use any environmental, social, or governance model law, regulation, or other standard that has not been specifically authorized by statute, including:

(1) a rule, model, or standard required under any federal law that does not preempt state law under the McCarran-Ferguson Act (15 U.S.C. Section 1012(b)); or

(2) a rule, model, or standard required by any national organization, including the National Association of Insurance Commissioners, that has not been specifically authorized by statute.

SECTION 2. Makes application of Chapter 565, Insurance Code, as added by this Act, prospective to January 1, 2024.

SECTION 3. Effective date: September 1, 2023.