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By:  Toth H.B. No. 645

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting financial institutions and other businesses from using value-based criteria.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 121 to read as follows:

CHAPTER 121. USE OF VALUE-BASED CRITERIA IN BUSINESS PRACTICE

Sec. 121.001.  DEFINITIONS. In this chapter:

(1)  "Business" means a person engaged in a trade, occupation, profession, or other commercial activity.

(2)  "Financial institution" has the meaning assigned by Section 201.101, Finance Code.

Sec. 121.002.  USE OF VALUE-BASED CRITERIA PROHIBITED. (a) A financial institution or business in its business practice may not discriminate against, advocate for, or give disparate treatment to a person using value-based criteria, including:

(1)  the person's social media activity;

(2)  the person's membership or participation in a club, association, union, or other group;

(3)  the person's political affiliation or beliefs;

(4)  the person's current or former employer; or

(5)  any other social credit, environmental, social governance, or similar value-based standards.

(b)  This section does not limit the ability of a financial institution or business to refuse or discontinue the conduct of business with a person if the refusal or discontinuance is necessary for the physical safety of the financial institution's or business's employees.

(c)  Notwithstanding Subsection (a), a financial institution or business may offer a product or service that uses value-based criteria. The financial institution or business shall disclose any value-based criteria used in a product or service to a potential customer.

Sec. 121.003.  CIVIL LIABILITY FOR USING VALUE-BASED CRITERIA. (a) Any person, other than an officer or employee of a state or local governmental entity in this state, may bring a civil action against a financial institution or business who violates Section 121.002.

(b)  If a claimant prevails in an action brought under this section, the court shall award:

(1)  injunctive relief sufficient to prevent the financial institution or business from violating this chapter;

(2)  statutory damages in an amount of not less than $100,000 for each action that the financial institution or business performed in violation of Subsection (a); and

(3)  costs and attorney's fees.

(c)  Notwithstanding Subsection (b), a court may not award relief under this section in response to a violation of Subsection (a) if the financial institution or business demonstrates that the financial institution or business previously paid the full amount of statutory damages under Subsection (b) in a previous action for that particular action performed in violation of Section 121.002.

(d)  Sections 41.003 and 41.004, Civil Practice and Remedies Code, do not apply to an action brought under this section.

SECTION 2.  The changes in law made by this Act apply only to a cause of action that accrues on or after the effective date of this Act.

SECTION 3.  This Act takes effect September 1, 2023.