A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the use of certain credit scores, including environmental, social, or governance scores and social credit scores, by certain financial institutions and other lenders in this state; providing a civil penalty.

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

SECTION 1. Subtitle A, Title 5, Business & Commerce Code, is amended by adding Chapter 74 to read as follows:

CHAPTER 74. PROHIBITED USE OF CERTAIN CREDIT SCORES IN LENDING

Sec. 74.0001. DEFINITIONS. In this chapter:

(1) "Credit score" means a number or rating derived from an algorithm, computer application, model, or other process that is based on information related to a customer and used to determine a customer's creditworthiness or credit capacity.

(2) "Environmental, social, or governance score" means a credit score that is based on measuring a customer's exposure to long-term environmental, social, and governance risks.

(3) "Financial institution" means:

(A) a bank chartered under state law, including Chapter 32, Finance Code;

(B) a savings and loan association chartered under Chapter 62, Finance Code;

(C) a state savings bank chartered under Chapter 92, Finance Code;
Sec. 74.0002. APPLICABILITY. This chapter applies only to a financial institution or other lender that:

(1) is formed or chartered under the laws of this state; and

(2) makes loans or other extensions of credit only to customers:

(A) who are residents of this state; or

(B) that are businesses organized under the laws of this state.

Sec. 74.0003. DISCRIMINATION IN USE OF CERTAIN CREDIT SCORES BY FINANCIAL INSTITUTIONS AND OTHER LENDERS PROHIBITED. (a) A financial institution or other lender, either directly or through the use of an outside contractor, may not discriminate against a customer in the price or rate that the financial institution or other lender charges for making a loan or other extension of credit to the customer by basing the price or rate wholly or partly on a credit score, including a social credit score or an environmental, social, or governance score, that is derived from subjective or arbitrary standards such as the customer's:
(1) social media posts;
(2) participation or membership in an organization;
(3) political affiliation; or
(4) employer.

(b) This section does not prohibit a financial institution or other lender from:

(1) entering into a business transaction in which a practice is fully disclosed and explained to the potential customer before the customer agrees to enter into the transaction; or

(2) discontinuing or refusing to conduct a transaction with a customer who is an individual account holder or with a potential customer if the discontinuation or refusal is necessary for the physical safety of the employees of the financial institution or other lender.

Sec. 74.0004. CIVIL PENALTY; INJUNCTION. (a) A financial institution or other lender that violates Section 74.0003 is liable to this state for a civil penalty in an amount not to exceed:

(1) $50,000 for the first violation; and
(2) $250,000 for each subsequent violation.

(b) The attorney general may bring an action:

(1) to collect a civil penalty imposed under this section; and

(2) in the name of this state to enjoin a violation of this chapter.

(c) The attorney general is entitled to recover reasonable expenses incurred in bringing an action under this section, including reasonable attorney's fees and court costs.
SECTION 2. This Act takes effect September 1, 2023.