

By: Harris of Anderson

H.B. No. 709

A BILL TO BE ENTITLED

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

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

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

9 CHAPTER 74. PROHIBITED USE OF CERTAIN CREDIT SCORES IN LENDING

10 Sec. 74.0001. DEFINITIONS. In this chapter:

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

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

18 (3) "Financial institution" means:

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

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

23 (C) a state savings bank chartered under Chapter
24 92, Finance Code;

1 (D) a credit union chartered under Chapter 122,
2 Finance Code; or

3 (E) a trust company chartered under the laws of
4 this state.

5 (4) "Social credit score" means a credit score that is
6 based on measuring a complex combination of personal data such as a
7 person's demographic information, online or offline behaviors, or
8 social network activity.

9 Sec. 74.0002. APPLICABILITY. This chapter applies only to
10 a financial institution or other lender that:

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

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

15 (A) who are residents of this state; or

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

18 Sec. 74.0003. DISCRIMINATION IN USE OF CERTAIN CREDIT
19 SCORES BY FINANCIAL INSTITUTIONS AND OTHER LENDERS PROHIBITED. (a)
20 A financial institution or other lender, either directly or through
21 the use of an outside contractor, may not discriminate against a
22 customer in the price or rate that the financial institution or
23 other lender charges for making a loan or other extension of credit
24 to the customer by basing the price or rate wholly or partly on a
25 credit score, including a social credit score or an environmental,
26 social, or governance score, that is derived from subjective or
27 arbitrary standards such as the customer's:

- 1 (1) social media posts;
- 2 (2) participation or membership in an organization;
- 3 (3) political affiliation; or
- 4 (4) employer.

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

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

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

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

- 18 (1) \$50,000 for the first violation; and
- 19 (2) \$250,000 for each subsequent violation.

20 (b) The attorney general may bring an action:

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

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

25 (c) The attorney general is entitled to recover reasonable
26 expenses incurred in bringing an action under this section,
27 including reasonable attorney's fees and court costs.

1 SECTION 2. This Act takes effect September 1, 2023.