

By: Schaefer

H.B. No. 2752

Substitute the following for H.B. No. 2752:

By: Oliverson

C.S.H.B. No. 2752

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the authority of the Texas Department of Insurance to  
3 adopt rules that implement or are based on certain environmental,  
4 social, and governance models, ratings, or standards.

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

6 SECTION 1. Section 36.004, Insurance Code, is amended by  
7 amending Subsection (b) and adding Subsection (d) to read as  
8 follows:

9 (b) For purposes of Subsections [~~Subsection~~] (a) and (d) of  
10 this section and Section 36.008, a version of a rule, regulation,  
11 directive, or standard is expressly authorized by statute if:

12 (1) the statute explicitly authorizes the  
13 commissioner to adopt rules consistent with the rule, regulation,  
14 directive, or standard; or

15 (2) that version is the latest version of the rule,  
16 regulation, directive, or standard on the date that the statute was  
17 enacted.

18 (d) In this subsection, "environmental assessment," "social  
19 assessment," and "governance assessment" have the meanings  
20 assigned by Section 36.008. Notwithstanding Subsection (c) of this  
21 section or any other law, the commissioner may not require an  
22 insurer to comply with a rule, regulation, directive, or standard,  
23 including an accounting standard, adopted by the National  
24 Association of Insurance Commissioners if the rule, regulation,

1 directive, or standard is developed using a model, rating, or  
2 standard that measures and considers environmental, social, and  
3 governance assessments unless application of the rule, regulation,  
4 directive, or standard is expressly authorized by statute.

5 SECTION 2. Subchapter A, Chapter 36, Insurance Code, is  
6 amended by adding Section 36.008 to read as follows:

7 Sec. 36.008. RULES IMPLEMENTING CERTAIN ENVIRONMENTAL,  
8 SOCIAL, AND GOVERNANCE MODELS, RATINGS, AND STANDARDS PROHIBITED.

9 (a) In this section:

10 (1) "Environmental assessment" means an assessment of  
11 the response by or vulnerability of an entity to climate change,  
12 including the extent of the entity's exposure to harm from  
13 climate-related factors.

14 (2) "Governance assessment" means an assessment of the  
15 ethical or moral principles that influence the corporate governance  
16 of an entity, including the structure and composition of the  
17 governing board, ownership structure, employee and officer pay  
18 policy, and accounting methodology of the entity.

19 (3) "Social assessment" means an assessment of:

20 (A) the human capital management practices of an  
21 entity, including employment practices, employee training and  
22 development, employee safety, and the selection of suppliers and  
23 vendors based on preferred labor standards;

24 (B) the potential for an entity's products to  
25 directly or indirectly cause physical or financial harm to persons  
26 or to identified groups of persons, including harm caused by  
27 quality control or safety failures and the unintentional or

1 unauthorized release of personal identifying information held by  
2 the entity;

3 (C) an entity's willingness to invest its  
4 earnings or reserves to improve the quality and safety of the  
5 entity's management practices and products and mitigate any  
6 negative effect those practices and products may have on consumers  
7 and the environment; or

8 (D) any other factor relating to the social  
9 effect of the entity's practices or products, including opposition  
10 to those practices and products and their effect on the supply  
11 chain.

12 (b) This section applies only to a rule that:

13 (1) implements or is based on an interstate, national,  
14 or international model, rating, or standard, including an  
15 accounting standard, that measures and considers environmental,  
16 social, and governance assessments;

17 (2) is intended to:

18 (A) protect the environment;

19 (B) evaluate the effect of a particular entity or  
20 industry on the environment; or

21 (C) encourage an entity to engage in specific  
22 activities or behaviors in response to environmental concerns; and

23 (3) may materially affect in an adverse manner the:

24 (A) economy of this state or a sector of the  
25 economy of this state;

26 (B) productivity and competitiveness of an  
27 entity doing business in this state;

1                   (C) number of people employed in this state; or  
2                   (D) health and safety of the residents of this  
3 state.

4           (c) The commissioner may not adopt or enforce a rule to  
5 which this section applies:

6                   (1) that was developed by an entity that is not  
7 licensed or regulated by:

8                           (A) the department;

9                           (B) the National Association of Insurance  
10 Commissioners; or

11                   (C) an entity of this state or of the federal  
12 government, other than an entity described by Paragraph (A) or (B),  
13 that regulates the practice of insurance;

14                   (2) that may affect the authority of this state to  
15 regulate the practice of insurance in this state; and

16                   (3) the adoption or enforcement of which is not  
17 specifically authorized by statute.

18           (d) A person may file an action for declaratory judgment  
19 challenging the adoption of a rule on the basis that the rule was  
20 adopted in violation of this section. An action for declaratory  
21 judgment under this section is governed by Section 2001.038,  
22 Government Code. If the court determines that the rule was adopted  
23 in violation of this section, the rule is invalid.

24           SECTION 3. The change in law made by this Act applies only  
25 to a proposed rule for which notice is filed with the secretary of  
26 state under Section 2001.023, Government Code, on or after the  
27 effective date of this Act.

1 SECTION 4. This Act takes effect September 1, 2023.