

AN ACT

relating to consideration by insurers of certain prohibited criteria for ratemaking.

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

SECTION 1. Subtitle C, Title 5, Insurance Code, is amended by adding Chapter 565 to read as follows:

CHAPTER 565. PROHIBITED RATING CRITERIA

Sec. 565.001. PURPOSE. (a) 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) 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) 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, the rating of certain businesses or risks in this state without an ordinary

1 insurance business purpose may adversely affect the economy, a
2 sector of the economy, productivity, competition, jobs, the
3 environment, or the public health and safety of this state or a
4 portion of this state.

5 Sec. 565.002. DEFINITION. In this chapter, "insurer" means
6 an insurance company or other entity authorized to engage in the
7 business of insurance in this state. The term includes:

8 (1) a stock or mutual property and casualty insurance
9 company;

10 (2) a Lloyd's plan;

11 (3) a reciprocal or interinsurance exchange;

12 (4) a county mutual insurance company;

13 (5) a farm mutual insurance company;

14 (6) any insurer writing a line of insurance regulated
15 by Title 10;

16 (7) all life, health, and accident insurance companies
17 regulated by the department, including:

18 (A) a stock or mutual life, health, or accident
19 insurance company;

20 (B) a fraternal benefit society;

21 (C) a nonprofit hospital, medical, or dental
22 service corporation, including a group hospital service
23 corporation operating under Chapter 842; and

24 (D) a stipulated premium company; and

25 (8) a health maintenance organization operating under
26 Chapter 843.

27 Sec. 565.003. APPLICABILITY OF CHAPTER. (a) Except as

1 provided by this section, this chapter applies only to insurance
2 policies issued and delivered by an insurer in this state.

3 (b) This chapter does not require the filing of rates for
4 any line, type of insurer, or type of insurance business that is not
5 specifically required by statute to file rates with the department.

6 (c) This chapter does not apply to:

7 (1) fidelity, guaranty, and surety bonds; or

8 (2) crop insurance.

9 Sec. 565.004. CONSTRUCTION OF CHAPTER. (a) This chapter
10 shall be construed and applied to promote the underlying purposes
11 as provided by Section 565.001.

12 (b) This chapter may not be construed or applied to require:

13 (1) an insurer to write any line or type of business
14 that the insurer does not write; or

15 (2) a material change in the insurer's current
16 business plans.

17 (c) Nothing in this chapter is intended to create any type
18 of private cause of action or independent basis in a civil or
19 criminal proceeding.

20 (d) Nothing in this chapter is intended to prohibit the use
21 of information that is relevant and related to the risk being
22 insured even if that information may also be used or considered in
23 developing an environmental, social, or governance model, score,
24 factor, or standard.

25 Sec. 565.005. PROHIBITED CRITERIA. Except as provided by
26 Section 565.006, an insurer may not use an environmental, social,
27 or governance model, score, factor, or standard to charge a rate

1 different than the rate charged to another business or risk in the
2 same class for essentially the same hazard.

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

9 Sec. 565.007. REGULATORY ACTION. Nothing in this chapter
10 is intended to authorize the department to adopt any rule, model, or
11 standard requiring an insurer to use any environmental, social, or
12 governance model law, regulation, or other standard that has not
13 been specifically authorized by statute, including:

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

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

21 SECTION 2. Chapter 565, Insurance Code, as added by this
22 Act, applies only to an insurance policy that is delivered, issued
23 for delivery, or renewed in this state on or after January 1, 2024.

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

S.B. No. 833

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 833 passed the Senate on May 11, 2023, by the following vote: Yeas 20, Nays 11.

Secretary of the Senate

I hereby certify that S.B. No. 833 passed the House on May 24, 2023, by the following vote: Yeas 86, Nays 54, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor