

1-1 By: King, Kolthorst, Middleton S.B. No. 833
1-2 (In the Senate - Filed February 10, 2023; March 1, 2023,
1-3 read first time and referred to Committee on Business & Commerce;
1-4 May 5, 2023, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 2; May 5, 2023, sent
1-6 to printer.)

1-7	COMMITTEE VOTE				
1-8		Yea	Nay	Absent	PNV
1-9	Schwertner	X			
1-10	King	X			
1-11	Birdwell			X	
1-12	Campbell	X			
1-13	Creighton	X			
1-14	Johnson		X		
1-15	Kolthorst	X			
1-16	Menéndez		X		
1-17	Middleton	X			
1-18	Nichols	X			
1-19	Zaffirini			X	

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 833 By: King

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to consideration by insurers of certain prohibited
1-24 criteria for ratemaking.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Subtitle C, Title 5, Insurance Code, is amended
1-27 by adding Chapter 565 to read as follows:

1-28 CHAPTER 565. PROHIBITED RATING CRITERIA

1-29 Sec. 565.001. PURPOSE. (a) The purpose of this chapter is
1-30 to regulate the use of environmental, social, or governance models,
1-31 scores, factors, or standards to define acts or practices that may
1-32 be unfair discrimination in the business of insurance in this
1-33 state.

1-34 (b) The legislature finds that there are numerous entities
1-35 that have developed different environmental, social, or governance
1-36 models, scores, factors, or standards that are used to:

1-37 (1) evaluate financial risks for investments in
1-38 certain businesses or industries; or

1-39 (2) encourage or discourage business dealings or
1-40 investments with certain types of businesses or industries.

1-41 (c) To the extent that the use of such models, scores,
1-42 factors, or standards are not based on sound actuarial principles,
1-43 or do not bear a reasonable relationship to the expected loss and
1-44 expense experience related to insurance risks, the rating of
1-45 certain businesses or risks in this state without an ordinary
1-46 insurance business purpose may adversely affect the economy, a
1-47 sector of the economy, productivity, competition, jobs, the
1-48 environment, or the public health and safety of this state or a
1-49 portion of this state.

1-50 Sec. 565.002. DEFINITION. In this chapter, "insurer" means
1-51 an insurance company or other entity authorized to engage in the
1-52 business of insurance in this state. The term includes:

1-53 (1) a stock or mutual property and casualty insurance
1-54 company;

1-55 (2) a Lloyd's plan;

1-56 (3) a reciprocal or interinsurance exchange;

1-57 (4) a county mutual insurance company;

1-58 (5) a farm mutual insurance company;

1-59 (6) any insurer writing a line of insurance regulated

1-60 by Title 10;

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

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

(B) a fraternal benefit society;

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

(D) a stipulated premium company; and

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

Sec. 565.003. APPLICABILITY OF CHAPTER. (a) Except as provided by this section, this chapter applies only to insurance policies issued and delivered by an insurer in this state.

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

(c) This chapter does not apply to:

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

(2) crop insurance.

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

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

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

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

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

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

Sec. 565.005. PROHIBITED CRITERIA. Except as provided by Section 565.006, an insurer may not use an environmental, social, or governance model, score, factor, or standard to charge a rate different than the rate charged to another business or risk in the same class for essentially the same hazard.

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

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

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

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

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

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

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