

BILL ANALYSIS

S.B. 495
By: Sparks
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill author has informed the committee that a recent push within the insurance industry to promote and include environmental, social, and governance ratings in risk assessments has concerned Texans and their businesses. The bill author has also informed the committee that these ratings provide information to market participants about the relation between corporations and non-investor stakeholders' interests, and while the information may be used to make investment decisions and gain feedback on the quality of a corporation's sustainability initiatives, the providers of these ratings have come under scrutiny over concerns of the reliability of their assessments. Furthermore, the bill author has informed the committee that, to ensure there is proper oversight of insurance in Texas and to avoid future risks, placing limitations on the rulemaking authority of the Texas Department of Insurance regarding these ratings is necessary. S.B. 495 seeks to provide for such limitations by prohibiting the commissioner of insurance from adopting or enforcing certain rules that implement or are based on a model, rating, or standard that considers environmental, social, and governance assessments.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 495 amends the Insurance Code to prohibit the commissioner of insurance from requiring an insurer to comply with a rule, regulation, directive, or standard, including an accounting standard, adopted by the National Association of Insurance Commissioners (NAIC) that is developed using a model, rating, or standard that measures and considers environmental, social, and governance assessments unless application of the rule, regulation, directive, or standard is expressly authorized by statute. The bill establishes that, for purposes of that prohibition, a version of a rule, regulation, directive, or standard is expressly authorized by statute if the statute explicitly authorizes the commissioner to adopt rules consistent with the rule, regulation, directive, or standard or that version is the latest version of the rule, regulation, directive, or standard on the date that the statute was enacted.

S.B. 495 prohibits the commissioner from adopting or enforcing a rule that meets the following criteria:

- the rule was developed by an entity that is not licensed or regulated by the Texas Department of Insurance, the NAIC, or an entity of the state or the federal government, other than those two entities, that regulates the practice of insurance;
- the rule may affect the authority of the state to regulate the practice of insurance in Texas; and
- the adoption or enforcement of the rule is not specifically authorized by statute.

The bill authorizes a person to file an action for declaratory judgment challenging the adoption of a rule on the basis that the rule was adopted in violation of that prohibition. The bill establishes that such an action is governed by the Administrative Procedure Act and invalidates a rule that the court determines was adopted in violation of the bill's prohibition. The bill's prohibition applies only to a rule that does the following:

- implements or is based on an interstate, national, or international model, rating, or standard, including an accounting standard, that measures and considers environmental, social, and governance assessments;
- is intended to protect the environment, evaluate the effect of a particular entity or industry on the environment, or encourage an entity to engage in specific activities or behaviors in response to environmental concerns; and
- may materially affect in an adverse manner the Texas economy or a sector of the Texas economy, the productivity and competitiveness of an entity doing business in Texas, the number of people employed in Texas, or the health and safety of Texas residents.

S.B. 495 defines the following terms for purposes of its provisions:

- "environmental assessment" as an assessment of the response by or vulnerability of an entity to climate change, including the extent of the entity's exposure to harm from climate-related factors;
- "governance assessment" as an assessment of the ethical or moral principles that influence the corporate governance of an entity, including the structure and composition of the governing board, ownership structure, and employee and officer pay policy; and
- "social assessment" as an assessment of the following:
 - the human capital management practices of an entity, including employment practices, employee training and development, employee safety, and the selection of suppliers and vendors based on preferred labor standards;
 - the potential for an entity's products to directly or indirectly cause physical or financial harm to persons or to identified groups of persons, including harm caused by quality control or safety failures and the unintentional or unauthorized release of personal identifying information held by the entity;
 - an entity's willingness to invest its earnings or reserves to improve the quality and safety of the entity's management practices and products and mitigate any negative effect those practices and products may have on consumers and the environment; or
 - any other factor relating to the social effect of the entity's practices or products, including opposition to those practices and products and their effect on the supply chain.

S.B. 495 applies only to a proposed rule for which notice is filed with the secretary of state under the Administrative Procedure Act on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2025.