

BILL ANALYSIS

Senate Research Center
89R4620 DNC-D

S.B. 495
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Business & Commerce
2/13/2025
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A recent push by the insurance industry to promote and include environmental, social, and governance ratings within their risk assessments have Texans and their businesses concerned. The ratings provide information to market participants about the relation between corporations and non-investor stakeholders' interests. The information may be used to make investment decisions, while corporations may use it to gain feedback on the quality of their sustainability initiatives. The rating providers have come under scrutiny over concerns of the reliability of their assessments. Insurance providers market their products to individual risks or corporate business risks. At present, these ratings are not done on an individual level, but insurers do make investments, and risk assessments play a role in the cost a business or individual pays for coverage. To ensure there is proper oversight of insurance in Texas, placing limitations on the Texas Department of Insurance (TDI) rulemaking authority regarding these ratings is necessary to avoid future risk. S.B. 495 seeks to provide for these limitations by prohibiting the commissioner of insurance from adopting certain rules relating to environmental, social, and governance assessments and from requiring an insurer to comply with certain rules, regulations, directives, or standards that were developed using environmental, social, or governance ratings.

As proposed, S.B. 495 amends current law relating to the authority of the Texas Department of Insurance to adopt rules that implement or are based on certain environmental, social, and governance models, ratings, or standards.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the commissioner of insurance is modified in SECTION 1 (Section 36.004, Insurance Code) and SECTION 2 (Section 36.008, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 36.004, Insurance Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Provides that, for purposes of Subsections (a) (relating to prohibiting the Texas Department of Insurance from requiring an insurer to comply with a National Association of Insurance Commissioners (NAIC) rule that is not expressly granted by statute) and (d) of Section 36.004 (Compliance with National Association of Insurance Commissioners Requirements; Rules) and Section 36.008, a version of a rule, regulation, directive, or standard is expressly authorized by statute if certain conditions are met. Makes a nonsubstantive change.

(d) Defines "environmental assessment," "social assessment," and "governance assessment." Prohibits the commissioner of insurance (commissioner), notwithstanding Subsection (c) (relating to authorizing the commissioner to adopt a rule requiring compliance with NAIC standards under certain conditions) of this section or any other law, from requiring an insurer to comply with a rule, regulation, directive, or standard, including an accounting standard, adopted by NAIC if the rule, regulation, directive, or standard 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.

SECTION 2. Amends Subchapter A, Chapter 36, Insurance Code, by adding Section 36.008, as follows:

Sec. 36.008. RULES IMPLEMENTING CERTAIN ENVIRONMENTAL, SOCIAL, AND GOVERNANCE MODELS, RATINGS, AND STANDARDS PROHIBITED. (a) Defines "environmental assessment," "governance assessment," and "social assessment."

(b) Provides that this section applies only to a rule that implements or is based on a model, rating or standard meeting certain criteria, is intended to accomplish certain objectives, and may materially affect in an adverse manner certain outcomes.

(c) Prohibits the commissioner from adopting or enforcing a rule to which this section applies that was developed by an entity that is not licensed or regulated by certain entities, that may affect the authority of this state to regulate the practice of insurance in this state, and the adoption or enforcement of which is not specifically authorized by statute.

(d) Authorizes a person to file an action for declaratory judgment challenging the adoption if a rule on the basis that the rule was adopted in violation of this section. Provides that an action for declaratory judgment under this section is governed by Section 2001.038 (Declaratory Judgment), Government Code. Provides that, if the court determines that the rule was adopted in violation of this section, the rule is invalid.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2025.