

By: Toth

H.B. No. 645

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting financial institutions and other businesses from using value-based criteria.

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

SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 121 to read as follows:

CHAPTER 121. USE OF VALUE-BASED CRITERIA IN BUSINESS PRACTICE

Sec. 121.001. DEFINITIONS. In this chapter:

(1) "Business" means a person engaged in a trade, occupation, profession, or other commercial activity.

(2) "Financial institution" has the meaning assigned by Section 201.101, Finance Code.

Sec. 121.002. USE OF VALUE-BASED CRITERIA PROHIBITED. (a) A financial institution or business in its business practice may not discriminate against, advocate for, or give disparate treatment to a person using value-based criteria, including:

- (1) the person's social media activity;
- (2) the person's membership or participation in a club, association, union, or other group;
- (3) the person's political affiliation or beliefs;
- (4) the person's current or former employer; or
- (5) any other social credit, environmental, social governance, or similar value-based standards.

(b) This section does not limit the ability of a financial

1 institution or business to refuse or discontinue the conduct of
2 business with a person if the refusal or discontinuance is
3 necessary for the physical safety of the financial institution's or
4 business's employees.

5 (c) Notwithstanding Subsection (a), a financial institution
6 or business may offer a product or service that uses value-based
7 criteria. The financial institution or business shall disclose any
8 value-based criteria used in a product or service to a potential
9 customer.

10 Sec. 121.003. CIVIL LIABILITY FOR USING VALUE-BASED
11 CRITERIA. (a) Any person, other than an officer or employee of a
12 state or local governmental entity in this state, may bring a civil
13 action against a financial institution or business who violates
14 Section 121.002.

15 (b) If a claimant prevails in an action brought under this
16 section, the court shall award:

17 (1) injunctive relief sufficient to prevent the
18 financial institution or business from violating this chapter;

19 (2) statutory damages in an amount of not less than
20 \$100,000 for each action that the financial institution or business
21 performed in violation of Subsection (a); and

22 (3) costs and attorney's fees.

23 (c) Notwithstanding Subsection (b), a court may not award
24 relief under this section in response to a violation of Subsection
25 (a) if the financial institution or business demonstrates that the
26 financial institution or business previously paid the full amount
27 of statutory damages under Subsection (b) in a previous action for

1 that particular action performed in violation of Section 121.002.

2 (d) Sections 41.003 and 41.004, Civil Practice and Remedies
3 Code, do not apply to an action brought under this section.

4 SECTION 2. The changes in law made by this Act apply only to
5 a cause of action that accrues on or after the effective date of
6 this Act.

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