

SUBJECT: Prohibiting discrimination due to political affiliation by certain insurers

COMMITTEE: Insurance — committee substitute recommended

VOTE: 7 ayes — Oliverson, Vo, Hull, Israel, Middleton, Romero, Sanford
1 nay — J. González
1 absent — Paul

WITNESSES: For — (*Registered, but did not testify*: Mary Castle and Jonathan Covey, Texas Values Action)

Against — (*Registered, but did not testify*: John Marlow, Chubb)

On — Jon Schnautz, National Association of Mutual Insurance Companies; (*Registered, but did not testify*: Kimberly Donovan, Office of Public Insurance Counsel; Luke Bellsnyder, Texas Department of Insurance)

BACKGROUND: Insurance Code ch. 544 establishes general prohibitions against discrimination by certain insurers or a health maintenance organization.

Some have raised concerns that some insurers review policyholders' social media accounts to gather information about individuals and that this information could become part of underwriting in the future.

DIGEST: CSHB 3433 would prohibit an insurer or health maintenance organization (HMO) from refusing to insure or provide coverage to an individual because of the individual's political affiliation or expression.

The bill also would prohibit a person from refusing to continue to insure or provide coverage to an individual; limit the amount, extent, or kind of coverage available for an individual; or charge an individual a rate that was different from the rate charged to other individuals for the same coverage because of the individual's political affiliation or expression.

Applicability. The bill would apply to an HMO and to specified legal entities engaged in the business of insurance in the state, including:

- a capital stock insurance company;
- a mutual insurance company;
- a title insurance company;
- a Lloyd's plan;
- a reciprocal or interinsurance exchange;
- a farm mutual insurance company; and
- an agent, broker, adjuster, or life and health insurance counselor.

Exceptions. A person would not violate the bill's prohibitions if the refusal, limitation, or charge was based on sound underwriting or actuarial principles reasonably related to actual or anticipated loss experience, or required or authorized by law or a regulatory mandate.

Enforcement. An HMO or legal entity engaged in the business of insurance that violated or failed to comply with the bill's provisions would be subject to certain sanctions or administrative penalties under current law. The commissioner of the Texas Department of Insurance could use the cease and desist procedures authorized under current law.

The bill would take effect September 1, 2021, and would not apply to an insurance policy that was issued or renewed before the bill's effective date.