

## **BILL ANALYSIS**

Senate Research Center  
87R18151 RDS-D

H.B. 3433  
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State Affairs  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Many consumers are aware that insurance companies use social media and other avenues for their own marketing, but may not be aware that some insurers review policyholders' social media accounts for information about these individuals. Reports from insurance industry professionals note that the impact of social media on the insurance industry is just beginning to be felt and suggest that this information is likely to become part of underwriting in the future. Given that insurance products are critical to protecting property and health, it is in the public interest to ensure that consumers are protected from discriminatory practices contrary to the foundational values of our democracy. H.B. 3433 seeks to prohibit insurers from discriminating against individuals on the basis of their political affiliation or expression.

H.B. 3433 amends current law relating to prohibited discrimination on the basis of an individual's political affiliation or expression by certain insurers.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 544, Insurance Code, by adding Subchapter M, as follows:

#### SUBCHAPTER M. POLITICAL AFFILIATION AND EXPRESSION

Sec. 544.601. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter applies to:

- (1) any legal entity engaged in the business of insurance in this state, including:
  - (A) a capital stock insurance company;
  - (B) a mutual insurance company;
  - (C) a title insurance company;
  - (D) a fraternal benefit society;
  - (E) a local mutual aid association;
  - (F) a statewide mutual assessment company;
  - (G) a county mutual insurance company;
  - (H) a Lloyd's plan;
  - (I) a reciprocal or interinsurance exchange;

- (J) a stipulated premium company;
  - (K) a group hospital service corporation;
  - (L) a farm mutual insurance company;
  - (M) a risk retention group;
  - (N) an eligible surplus lines insurer; and
  - (O) an agent, broker, adjuster, or life and health insurance counselor; and
- (2) a health maintenance organization.

Sec. 544.602. PROHIBITION. Prohibits a person, except as provided by Section 544.603, from refusing to insure or provide coverage to an individual, refusing to continue to insure or provide coverage to an individual, limiting the amount, extent, or kind of coverage available for an individual, or charging an individual a rate that is different from the rate charged to other individuals for the same coverage because of the individual's political affiliation or expression.

Sec. 544.603. EXCEPTIONS. Provides that a person does not violate Section 544.602 if the refusal, limitation, or charge is based on sound underwriting or actuarial principles reasonably related to actual or anticipated loss experience or is required or authorized by law or a regulatory mandate.

Sec. 544.604. ENFORCEMENT ACTIONS. (a) Provides that a health maintenance organization or legal entity engaged in the business of insurance that is found to be in violation of or to have failed to comply with this subchapter is subject to the sanctions provided by Chapter 82 (Sanctions) or administrative penalties authorized under Chapter 84 (Administrative Penalties).

(b) Authorizes the commissioner of insurance, in addition to the procedures provided by Subsection (a), to use the cease and desist procedures authorized by Chapter 83 (Emergency Cease and Desist Orders).

SECTION 2. Provides that Subchapter M, Chapter 544, Insurance Code, as added by this Act, does not apply to an insurance policy that is delivered, issued for delivery, or renewed before the effective date of this Act.

SECTION 3. Effective date: September 1, 2021.