H.B. No. 2694

AN ACT

relating to the authority of certain insurers to make investments in bond exchange-traded funds.

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

SECTION 1.  Subchapter B, Chapter 424, Insurance Code, is amended by adding Section 424.075 to read as follows:

Sec. 424.075.  AUTHORIZED INVESTMENTS: BOND EXCHANGE-TRADED FUNDS. (a) An insurer may invest the insurer's funds in excess of minimum capital and surplus in shares of a bond exchange-traded fund registered under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), as amended, if:

(1)  the exchange-traded fund is solvent and reported at least $100 million of net assets in the exchange-traded fund's latest annual or more recent certified audited financial statement;

(2)  the securities valuation office has designated the exchange-traded fund as meeting the criteria to be placed on the list promulgated by the securities valuation office of exchange-traded funds eligible for reporting as a long-term bond in the Purposes and Procedures Manual of the securities valuation office or a successor publication; and

(3)  the amount of the insurer's investment in the exchange-traded fund does not exceed 15 percent of the insurer's capital and surplus.

(b)  This section does not authorize an insurer to invest in a bond exchange-traded fund that has:

(1)  embedded structural features designed to deliver performance that does not track the full unlevered and positive return of the underlying index or exposure, including a leveraged or inverse exchange-traded fund; or

(2)  an expense ratio in excess of 100 basis points.

(c)  An insurer may deposit with the department shares of a bond exchange-traded fund described by Subsection (a) as a statutory deposit if state law requires a statutory deposit from the insurer.

SECTION 2.  Subchapter C, Chapter 425, Insurance Code, is amended by adding Section 425.1231 to read as follows:

Sec. 425.1231.  AUTHORIZED INVESTMENTS: BOND EXCHANGE-TRADED FUNDS. (a) An insurance company may invest the insurer's funds in excess of minimum capital and surplus in shares of a bond exchange-traded fund registered under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), as amended, if:

(1)  the exchange-traded fund is solvent and reported at least $100 million of net assets in the exchange-traded fund's latest annual or more recent certified audited financial statement;

(2)  the securities valuation office has designated the exchange-traded fund as meeting the criteria to be placed on the list promulgated by the securities valuation office of exchange-traded funds eligible for reporting as a long-term bond in the Purposes and Procedures Manual of the securities valuation office or a successor publication; and

(3)  the amount of the insurance company's investment in the exchange-traded fund does not exceed 15 percent of the insurance company's capital and surplus.

(b)  This section does not authorize an insurance company to invest in a bond exchange-traded fund that has:

(1)  embedded structural features designed to deliver performance that does not track the full unlevered and positive return of the underlying index or exposure, including a leveraged or inverse exchange-traded fund; or

(2)  an expense ratio in excess of 100 basis points.

(c)  A bond exchange-traded fund described by Subsection (a) shall be considered a business entity for purposes of Section 425.110.

(d)  An insurance company may deposit with the department shares of a bond exchange-traded fund described by Subsection (a) as a statutory deposit if state law requires a statutory deposit from the insurance company.

SECTION 3.  Subchapter D, Chapter 425, Insurance Code, is amended by adding Section 425.2061 to read as follows:

Sec. 425.2061.  AUTHORIZED INVESTMENTS FOR ALL FUNDS: BOND EXCHANGE-TRADED FUNDS. Subject to Section 425.157(b), an insurer may invest any of the insurer's funds and accumulations in a bond exchange-traded fund described by Section 425.1231(a).

SECTION 4.  This Act takes effect September 1, 2019.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

    President of the Senate Speaker of the House

I certify that H.B. No. 2694 was passed by the House on April 26, 2019, by the following vote:  Yeas 139, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2694 on May 22, 2019, by the following vote:  Yeas 144, Nays 0, 1 present, not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Chief Clerk of the House

I certify that H.B. No. 2694 was passed by the Senate, with amendments, on May 14, 2019, by the following vote:  Yeas 31, Nays 0.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Secretary of the Senate

APPROVED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

                 Date

          \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

               Governor