By:  Lucio III (Senate Sponsor - Creighton) H.B. No. 2694

(In the Senate - Received from the House April 29, 2019; April 29, 2019, read first time and referred to Committee on Business & Commerce; May 9, 2019, reported adversely, with favorable Committee Substitute by the following vote: Yeas 8, Nays 0; May 9, 2019, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Hancock              X

Nichols              X

Campbell             X

Creighton            X

Menéndez             X

Paxton               X

Schwertner           X

Whitmire                       X

Zaffirini            X

COMMITTEE SUBSTITUTE FOR H.B. No. 2694 By:  Creighton

A BILL TO BE ENTITLED

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 statutory long-term bond obligation on Internal Revenue Service Form 1040, Schedule D; 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 statutory long-term bond obligation on Internal Revenue Service Form 1040, Schedule D; 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.  This Act takes effect September 1, 2019.

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