

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

1 a bond exchange-traded fund that has:

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

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

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

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

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

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

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

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

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

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

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

11 (c) A bond exchange-traded fund described by Subsection (a)
12 shall be considered a business entity for purposes of Section
13 425.110.

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

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

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

24 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