

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Lucio III

H.B. No. 2694

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) In this section, "bond exchange-traded fund" means an exchange-traded fund registered as an investment company under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), as amended, that has a principal investment strategy of investing primarily in bonds, loans, or other debt instruments.

(b) An insurer may invest the insurer's funds in excess of minimum capital and surplus in shares of a bond exchange-traded fund if:

(1) the exchange-traded fund is solvent and reported at least \$10 million of net assets in the exchange-traded fund's latest annual or more recent certified audited financial statement;

(2) the exchange-traded fund is 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 funds in excess of minimum capital and surplus.

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

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

7       Sec. 425.1231. AUTHORIZED INVESTMENTS: BOND  
8 EXCHANGE-TRADED FUNDS. (a) In this section, "bond exchange-traded  
9 fund" means an exchange-traded fund registered as an investment  
10 company under the Investment Company Act of 1940 (15 U.S.C. Section  
11 80a-1 et seq.), as amended, that has a principal investment  
12 strategy of investing primarily in bonds, loans, or other debt  
13 instruments.

14       (b) An insurance company may invest the company's funds in  
15 excess of minimum capital and surplus in shares of a bond  
16 exchange-traded fund if:

17               (1) the exchange-traded fund is solvent and reported  
18 at least \$10 million of net assets in the exchange-traded fund's  
19 latest annual or more recent certified audited financial statement;

20               (2) the exchange-traded fund is eligible for reporting  
21 as a long-term bond in the Purposes and Procedures Manual of the  
22 securities valuation office or a successor publication; and

23               (3) the amount of the insurance company's investment  
24 in the exchange-traded fund does not exceed the investment amount  
25 limit in Section 425.157(b).

26       (c) An insurance company may deposit with the department  
27 shares of a bond exchange-traded fund described by Subsection (b)

1 as a statutory deposit if state law requires a statutory deposit  
2 from the insurance company.

3 (d) Each bond exchange-traded fund described by Subsection  
4 (b) shall be considered a separate issuer of shares and a business  
5 entity for purposes of Section 425.110.

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

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

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

**ADOPTED**

MAY 14 2019

By: Brandon Cechter

Patricia Spaul  
Secretary of the Senate

HB.B. No. 2694

Substitute the following for \_\_.B. No. \_\_\_\_\_:

By: \_\_\_\_\_

C.S. H.B. No. 2694

A BILL TO BE ENTITLED

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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

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

**ADOPTED**

MAY 14 2019

*Leta Spaw*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Brandon Coe*

1 Amend C.S.H.B. No. 2694 (senate committee report) as  
2 follows:

3 (1) In SECTION 1 of the bill, in added Section  
4 424.075(a)(2), Insurance Code (page 1, line 37), strike  
5 "statutory".

6 (2) In SECTION 1 of the bill, in added Section  
7 424.075(a)(2), Insurance Code (page 1, lines 38 and 39), strike  
8 "obligation on Internal Revenue Service Form 1040, Schedule D" and  
9 substitute "in the Purposes and Procedures Manual of the securities  
10 valuation office or a successor publication".

11 (3) In SECTION 2 of the bill, in added Section  
12 425.1231(a)(2), Insurance Code (page 2, line 8), strike  
13 "statutory".

14 (4) In SECTION 2 of the bill, in added Section  
15 425.1231(a)(2), Insurance Code (page 2, lines 9 and 10), strike  
16 "obligation on Internal Revenue Service Form 1040, Schedule D" and  
17 substitute "in the Purposes and Procedures Manual of the securities  
18 valuation office or a successor publication".

19 (5) Add the following appropriately numbered SECTION to the  
20 bill and renumber subsequent SECTIONS of the bill accordingly:

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

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

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 15, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2694** by Lucio III (Relating to the authority of certain insurers to make investments in bond exchange-traded funds.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code relating to the authority of certain insurers to make investments in bond exchange-traded funds. Based on information provided by the Texas Department of Insurance, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance

**LBB Staff:** WP, CLo, CMa, CP



**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 9, 2019**

**TO:** Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2694** by Lucio III (Relating to the authority of certain insurers to make investments in bond exchange-traded funds.), **Committee Report 2nd House, Substituted**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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The bill would amend the Insurance Code relating to the authority of certain insurers to make investments in bond exchange-traded funds. Based on information provided by the Texas Department of Insurance, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance

**LBB Staff:** WP, CLo, CMa, CP

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 2, 2019**

**TO:** Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2694** by Lucio III (Relating to the authority of certain insurers to make investments in bond exchange-traded funds.), **As Engrossed**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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The bill would amend the Insurance Code relating to the authority of certain insurers to make investments in bond exchange-traded funds. Based on information provided by the Texas Department of Insurance, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance

**LBB Staff:** WP, CLo, CMa, CP

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 12, 2019**

**TO:** Honorable Eddie Lucio III, Chair, House Committee on Insurance

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2694** by Lucio III (relating to the authority of certain insurers to make investments in bond exchange-traded funds.), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Insurance Code relating to the authority of certain insurers to make investments in bond exchange-traded funds. Based on information provided by the Texas Department of Insurance, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance

**LBB Staff:** WP, CMA, CP

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 1, 2019**

**TO:** Honorable Eddie Lucio III, Chair, House Committee on Insurance

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2694** by Lucio III (Relating to the authority of certain insurers to make investments in bond exchange-traded funds.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Insurance Code relating to the authority of certain insurers to make investments in bond exchange-traded funds. Based on information provided by the Texas Department of Insurance, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance

**LBB Staff:** WP, CMA, CP