

**House Bill 2694**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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.

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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 [FA1(1);FA1(2)]

(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

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

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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

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

*(See subsection (d) below.)*

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

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

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

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bond in the Purposes and Procedures Manual of the securities valuation office or a successor publication; and [FA1(3);FA1(4)]

(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.

*(See subsection (c) above.)*

SECTION \_\_. 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

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the insurer's funds and accumulations in a bond exchange-traded fund, as defined by Section 425.1231(a).

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

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the insurer's funds and accumulations in a bond exchange-traded fund described by Section 425.1231(a). [FA1(5)]

SECTION 3. Same as House version.

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