

1-1 By: Lucio III (Senate Sponsor - Creighton) H.B. No. 2694  
 1-2 (In the Senate - Received from the House April 29, 2019;  
 1-3 April 29, 2019, read first time and referred to Committee on  
 1-4 Business & Commerce; May 9, 2019, reported adversely, with  
 1-5 favorable Committee Substitute by the following vote: Yeas 8,  
 1-6 Nays 0; May 9, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 2694 By: Creighton

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the authority of certain insurers to make investments  
 1-22 in bond exchange-traded funds.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter B, Chapter 424, Insurance Code, is  
 1-25 amended by adding Section 424.075 to read as follows:

1-26 Sec. 424.075. AUTHORIZED INVESTMENTS: BOND EXCHANGE-TRADED  
 1-27 FUNDS. (a) An insurer may invest the insurer's funds in excess of  
 1-28 minimum capital and surplus in shares of a bond exchange-traded  
 1-29 fund registered under the Investment Company Act of 1940 (15 U.S.C.  
 1-30 Section 80a-1 et seq.), as amended, if:

1-31 (1) the exchange-traded fund is solvent and reported  
 1-32 at least \$100 million of net assets in the exchange-traded fund's  
 1-33 latest annual or more recent certified audited financial statement;

1-34 (2) the securities valuation office has designated the  
 1-35 exchange-traded fund as meeting the criteria to be placed on the  
 1-36 list promulgated by the securities valuation office of  
 1-37 exchange-traded funds eligible for reporting as a statutory  
 1-38 long-term bond obligation on Internal Revenue Service Form 1040,  
 1-39 Schedule D; and

1-40 (3) the amount of the insurer's investment in the  
 1-41 exchange-traded fund does not exceed 15 percent of the insurer's  
 1-42 capital and surplus.

1-43 (b) This section does not authorize an insurer to invest in  
 1-44 a bond exchange-traded fund that has:

1-45 (1) embedded structural features designed to deliver  
 1-46 performance that does not track the full unlevered and positive  
 1-47 return of the underlying index or exposure, including a leveraged  
 1-48 or inverse exchange-traded fund; or

1-49 (2) an expense ratio in excess of 100 basis points.

1-50 (c) An insurer may deposit with the department shares of a  
 1-51 bond exchange-traded fund described by Subsection (a) as a  
 1-52 statutory deposit if state law requires a statutory deposit from  
 1-53 the insurer.

1-54 SECTION 2. Subchapter C, Chapter 425, Insurance Code, is  
 1-55 amended by adding Section 425.1231 to read as follows:

1-56 Sec. 425.1231. AUTHORIZED INVESTMENTS: BOND  
 1-57 EXCHANGE-TRADED FUNDS. (a) An insurance company may invest the  
 1-58 insurer's funds in excess of minimum capital and surplus in shares  
 1-59 of a bond exchange-traded fund registered under the Investment  
 1-60 Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), as amended,

2-1 if:  
2-2 (1) the exchange-traded fund is solvent and reported  
2-3 at least \$100 million of net assets in the exchange-traded fund's  
2-4 latest annual or more recent certified audited financial statement;  
2-5 (2) the securities valuation office has designated the  
2-6 exchange-traded fund as meeting the criteria to be placed on the  
2-7 list promulgated by the securities valuation office of  
2-8 exchange-traded funds eligible for reporting as a statutory  
2-9 long-term bond obligation on Internal Revenue Service Form 1040,  
2-10 Schedule D; and  
2-11 (3) the amount of the insurance company's investment  
2-12 in the exchange-traded fund does not exceed 15 percent of the  
2-13 insurance company's capital and surplus.  
2-14 (b) This section does not authorize an insurance company to  
2-15 invest in a bond exchange-traded fund that has:  
2-16 (1) embedded structural features designed to deliver  
2-17 performance that does not track the full unlevered and positive  
2-18 return of the underlying index or exposure, including a leveraged  
2-19 or inverse exchange-traded fund; or  
2-20 (2) an expense ratio in excess of 100 basis points.  
2-21 (c) A bond exchange-traded fund described by Subsection (a)  
2-22 shall be considered a business entity for purposes of Section  
2-23 [425.110](#).  
2-24 (d) An insurance company may deposit with the department  
2-25 shares of a bond exchange-traded fund described by Subsection (a)  
2-26 as a statutory deposit if state law requires a statutory deposit  
2-27 from the insurance company.

2-28 SECTION 3. This Act takes effect September 1, 2019.

2-29 \* \* \* \* \*