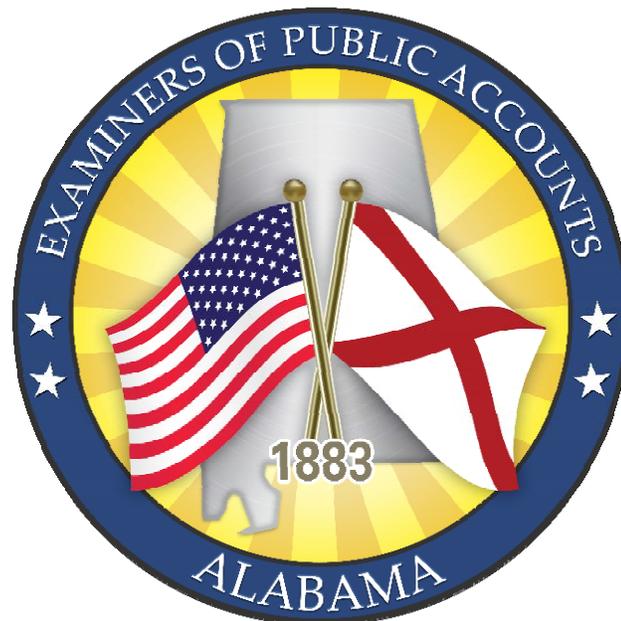


Report on the

**Department of Insurance
State of Alabama
Montgomery, Alabama**

October 1, 2016 through September 30, 2018

Filed: August 9, 2019



**Department of
Examiners of Public Accounts**

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Rachel Laurie Riddle, Chief Examiner



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Rachel Laurie Riddle
Chief Examiner

Honorable Rachel Laurie Riddle
Chief Examiner of Public Accounts
Montgomery, Alabama 36130

Dear Madam:

Under the authority of the *Code of Alabama 1975*, Section 41-5A-19, as added by Act Number 2018-129, we submit this report on the results of the examination of the Department of Insurance for the period October 1, 2016 through September 30, 2018.

Sworn to and subscribed before me this
the 26th day of July, 20 19.

Kelly D. Matthews
Notary Public

Respectfully submitted,

Rodney Wagstaff
Examiner of Public Accounts

Sworn to and subscribed before me this
the 24th day of July, 20 19.

Kelly D. Matthews
Notary Public

Charles Bass
Examiner of Public Accounts

Sworn to and subscribed before me this
the 24th day of July, 20 19.

Kelly D. Matthews
Notary Public

Gerald Dedon
Examiner of Public Accounts

rb

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Department of
Examiners of Public Accounts

SUMMARY

**Department of Insurance
October 1, 2016 through September 30, 2018**

The Department of Insurance (the “Department”) operates under the authority of Title 27 of the *Code of Alabama 1975*. By law, the Department exercises license/regulatory authority over businesses engaged in insurance including insurance companies, insurance producers and adjusters, the sale of pre-need funeral or cemetery merchandise and services, and service contracts sold in Alabama. The Department also manages or liquidates financially impaired or insolvent insurance companies, funeral homes, and cemeteries.

This report presents the results of an examination of the Department and a review of compliance by the Department with applicable laws and regulations of the State of Alabama. This examination was conducted in accordance with the requirements of the Department of Examiners of Public Accounts under the authority of the *Code of Alabama 1975*, Section 41-5A-12, as added by Act Number 2018-129. Our examination was performed for the purpose of determining whether the public officers, agents, and employees of the Department properly and lawfully accounted for all money and other public assets or resources received, disbursed, or in the custody of the Department. Our examination included determining compliance by the Department with state laws and regulations that pertain to financial transactions; personnel; safeguarding of state-owned assets, property, and resources; information dissemination, processing, and retention; and official actions, rulemaking procedures, and meetings. As a part of our examination, we also reviewed internal control policies and procedures relating to the areas listed above. Our examination did not encompass managerial and operational matters, such as whether the Department accomplished its mission or its regulatory, enforcement, investigative, or other oversight activities in an efficient, fair, timely, or legal manner.

Findings are numbered and reported by the examination period in which the finding originally occurred.

The following instance of noncompliance with State laws and regulations and other matters was found during the examination as shown on the Schedule of State Legal Compliance and Other Findings and is summarized below.

CURRENT FINDING

- 2018-01 The Department did not verify two employees' employment eligibility through E-Verify within three business days after they started work.

The Commissioner was invited to an exit conference held on July 18, 2019. Individuals in attendance were Jim Ridling, Commissioner; Mark Fowler, Deputy Commissioner; Reyn Norman, General Counsel; and Terese N. Toby, Chief Financial Officer; along with Robin Hutcheson, Audit Manager; Charles Bass, Examiner; and Gerald Dedon, Examiner, from the Department of Examiners of Public Accounts.



Department of
Examiners of Public Accounts

COMMENTS

**Department of Insurance
October 1, 2016 through September 30, 2018**

The Department of Insurance (the “Department”) operates under the authority of Title 27 of the *Code of Alabama 1975*. By law, the Department exercises license/regulatory authority over businesses engaged in insurance including insurance companies, insurance producers and adjusters, the sale of pre-need funeral or cemetery merchandise and services, and service contracts sold in Alabama. The Department also manages or liquidates financially impaired or insolvent insurance companies, funeral homes, and cemeteries.

The Commissioner of Insurance is the chief executive officer of the Department. The Commissioner is appointed by and serves at the pleasure of the Governor. The chief of the Receivership Division is appointed by and serves at the pleasure of the Commissioner. The State Fire Marshal is a classified State Merit System employee of the Department.

The Department regulates the following groups:

- **Insurance Companies and Insurance Representatives** – The Department licenses and regulates insurance companies and insurance representatives under the authority of Title 27 of the *Code of Alabama 1975*. These include producers, adjusters, title agents, service representatives, and preneed sales agents. The operations of the Department are primarily addressed in the *Code of Alabama 1975*, Sections 27-2-1 through 27-2-55.
- **Insurance Companies, Funeral Homes, and Cemeteries in Receivership** – The *Code of Alabama 1975*, Sections 27-2-50 through 27-2-55, establishes and provides for the operations of a Receivership Division within the Department to be responsible for managing or liquidating financially impaired or insolvent insurers. Title 27, Chapter 32 of the *Code of Alabama 1975* addresses the rehabilitation, reorganization, conservation, and liquidation of insurers.
- **Preneed, Funeral and Cemetery Merchandise and Services** – The Preneed Division of the Department is responsible for regulating the sale of preneed funeral or cemetery merchandise and services. The Division operates under the authority of the *Code of Alabama 1975*, Sections 27-17A-1 through 27-17A-57.
- **Service Contracts Sold to Consumers** – The Department is authorized by the *Code of Alabama 1975*, Sections 8-32-1 through 8-32-12, to regulate service contracts sold to consumers.

The State Fire Marshal's Office, which operates within the Department, performs the following functions:

- Enforcement of laws, regulations, and ordinances relating to prevention of fires; storage, sale, and use of combustibles and explosives; installation and maintenance of fire alarm systems and fire extinguishing equipment; construction, maintenance, and regulation of fire escapes; the means and adequacy of fire exits; suppression of arson and the investigation of the cause, origin, and circumstance of fires. The *Code of Alabama 1975*, Sections 36-19-1 through 36-19-44, govern the principal duties and responsibilities of the Fire Marshal regarding fire.
- Licensing and Regulation of the storage, sale, and use of fireworks and commercial explosives; the installation and maintenance of fire protection sprinkler systems; and of fire alarm systems. The State Fire Marshal's Office carries out these licensing duties under the authority of the *Code of Alabama 1975*, Sections 8-17-210 through 8-17-226; 8-17-240 through 8-17-256; 34-33-1 through 34-33-12; and 34-33A-1 through 34-33A-13.
- Enforcing Reduced Cigarette Ignition Propensity Standards – Cigarettes may not be sold or offered for sale in Alabama unless the cigarettes have been tested and meet performance standards, a written certification is filed by the manufacturer with the State Fire Marshal, and the cigarettes are marked as required by law. Concerning these standards, the State Fire Marshal operates under the authority of the *Code of Alabama 1975*, Sections 8-17-270 through 8-17-281.

The Department's Insurance Fraud Unit, created by Act Number 2012-429, Acts of Alabama, is housed within the Fire Marshal's office. The Unit operates under the authority of the *Code of Alabama 1975*, Sections 27-12A-1 through 27-12A-42, to investigate insurance fraud. The unit reviews reports or complaints of alleged insurance fraud from federal, state, and local law enforcement, as well as others to determine if further investigation is required. The unit may also initiate independent inquiries and investigations.

The Department administers the Strengthen Alabama Homes Program. The program is designed to aid Alabama homeowners and improve their homes with updated building modifications that minimize property loss due to catastrophic windstorm events. Act Number 2015-195, Acts of Alabama, authorized the Department to transfer up to \$2,500,000 for fiscal years 2016, 2017, and 2018, and Act Number 2018-262, Acts of Alabama, authorized the Department to transfer up to \$5,000,000 for fiscal year 2018 from the Insurance Department Fund to the Strengthen Alabama Homes Fund. The program is administered by the Department under the authority of the *Code of Alabama 1975*, Section 27-31E-1.

The Department operates from the following Special Revenue Funds maintained in the State Treasury:

- **Fund 341 - Special Examination Revolving Fund** – Authorized by the *Code of Alabama 1975*, Section 27-2-25(b), the fund accounts for receipts and disbursements associated with insurance examinations and some expenses associated with the Receivership Division. The unexpended balance at fiscal year-end remains on hand for subsequent expenditure.
- **Fund 342 - State Fire Marshal's Fund** – Authorized by the *Code of Alabama 1975*, Section 8-17-255, the fund accounts for receipts and disbursements associated with the State Fire Marshal's Office. The unexpended balance at fiscal year-end remains on hand for subsequent expenditure.
- **Fund 921 - Insurance Department Fund** – Authorized by the *Code of Alabama 1975*, Section 27-2-39, the fund accounts for receipts and disbursements associated with the general operations of the Department. Receipts for the fund are comprised of 50 percent of various licensing fees retained for operations. The remaining 50 percent is deposited into the State General Fund and is not available for use by the Department. The unencumbered and unexpended balance at fiscal year-end in excess of 25 percent of the amount appropriated for that fiscal year must be transferred to the State General Fund.
- **Fund 934 - Service Contract Revolving Fund** – Authorized by the *Code of Alabama 1975*, Section 8-32-3, the fund accounts for receipts and disbursements associated with service contract providers. The unexpended balance at fiscal year-end remains on hand for subsequent expenditure.
- **Fund 1233 - Reduced Cigarette Ignition Propensity Standards and Firefighter Protection Act Fund** – Authorized by the *Code of Alabama 1975*, Section 8-17-278, the fund accounts for receipts and disbursements associated with the State Fire Marshal's Office. The unexpended balance at fiscal year-end remains on hand for subsequent expenditure.
- **Fund 1611 - Insurance Fraud Unit Fund** – Authorized by the *Code of Alabama 1975*, Section 27-12A-42, the fund accounts for receipts and disbursements associated with the investigation and prosecution of insurers who commit insurance fraud. The unexpended balance at fiscal year-end remains on hand for subsequent expenditure.
- **Fund 1630 - Strengthen Alabama Homes Fund** – Authorized by the *Code of Alabama 1975*, Section 27-31E-2(b), the fund accounts for receipts and disbursements associated with the Strengthen Alabama Homes Program. The unexpended balance at fiscal year-end remains on hand for subsequent expenditure.

Collection of Premium Tax

The Department collects and distributes an insurance premium tax from companies authorized to transact insurance business in Alabama, as provided by the *Code of Alabama 1975*, Sections 27-4A-1 through 27-4A-7. No part of the premium tax is available for use by the Department.

The insurance premium tax is collected and distributed as follows:

- **General Fund** – receives 100% paid by all health maintenance organizations, 50% paid by domestic life insurers, 25% paid by all other domestic insurers, 100% paid by foreign life insurers, 62.5% paid by foreign property insurers, and 75% paid by all other foreign insurers.
- **Education Trust Fund** – receives 50% paid by domestic life insurers, 75% paid by all other domestic insurers, 37.5% paid by foreign property insurers, and 25% paid by all other foreign insurers. Amounts credited to this fund are limited to the amount credited in the 1992 fiscal year. Any excess is credited to the State General Fund.
- **Special Mental Health Fund** – receives 100% paid by nonprofit corporations organized pursuant to the *Code of Alabama 1975*, Sections 10-4-100 through 10-4-115. Amounts credited to this fund are limited to the amount credited in the 1992 fiscal year. Any excess is credited to the State General Fund.

The Department owned non-consumable personal property consisting of automobiles, office furniture, computers and equipment. A comparison was done of non-consumable personal property in the custody of the Department with property records maintained by the Property Inventory Division of the State Auditor's Office. No discrepancies were noted.

*Schedule of State Legal
Compliance and Other Findings*

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2018

Ref. No.	Finding/Noncompliance
2018-01	<p><u>Finding:</u> The Department did not verify two employees' employment eligibility through E-Verify by the third business day after the employees began work. One employee was verified eight days after the employee started work, and the other employee was verified five months after the employee started work.</p> <p>The <i>Code of Alabama 1975</i>, Section 31-13-15(b) states, "Effective April 1, 2012, every business entity or employer in this state shall enroll in E-Verify and thereafter, according to federal statutes and regulations governing E-Verify, shall verify the employment eligibility of the employee through E-Verify. A business entity or employer that uses E-Verify to verify the work authorization of an employee shall not be deemed to have violated this section with respect to the employment of that employee."</p> <p>Furthermore, the <i>E-Verify User Manual, Section 2.2</i> states, "E-Verify cases must be created no later than the third business day after the employee starts work for pay."</p> <p><u>Recommendation:</u> The Department should verify the employment eligibility of all employees through E-Verify within three business days after the employees start work.</p>

Schedule of Cash Receipts, Disbursements and Balances
For the Period October 1, 2016 through September 30, 2018

	2017-2018	2016-2017
<u>Receipts</u>		
Examination Fees	\$ 6,051,040.46	\$ 5,522,702.69
Licensure Fees	19,198,872.00	18,203,703.00
Fire Marshal Permit/Licensure Fees	449,380.00	468,610.00
Insurance Premium Tax	845,886.35	654,913.62
Preneed Funeral and Cemetery Fees	77,600.00	91,150.00
Cigarette Certification Fee	23,000.00	10,300.00
Insurance Fraud Assessment	281,800.00	287,750.00
Penalties and Fines	124,072.50	146,885.00
Document/Printing/Publication/Filing Fees	117,946.64	110,920.50
Alabama Insurance Underwriting Association Contribution	557,452.28	2,000,000.00
Transfers from Fund 0921	5,000,000.00	2,500,000.00
Prior Year Refunds	34,503.88	23,395.28
Insurance Recoveries/Reimbursements	154,270.03	56,726.45
Recyclables/Salvage	168.79	9,841.44
Total	32,915,992.93	30,086,897.98
<u>Disbursements</u>		
Personnel Costs	9,416,547.51	8,883,470.16
Employee Benefits	3,641,130.73	3,339,919.71
Travel, In-State	427,958.07	259,722.25
Travel, Out-of-State	83,606.70	150,515.87
Repairs and Maintenance	12,973.82	4,803.93
Rentals and Leases	1,798,244.40	1,753,201.74
Utilities and Communication	199,749.81	182,829.52
Professional Services	1,008,799.43	714,649.40
Supplies, Materials, and Operating Expenses	408,197.53	394,681.28
Transportation Equipment Operation	135,736.46	159,022.85
Grants and Benefits	7,017,305.47	3,765,147.51
Transportation Equipment Purchases	227,709.00	313,561.82
Other Equipment Purchases	103,955.51	199,977.79
Transfers to the General Fund	16,490,635.21	2,500,000.00
Total	40,972,549.65	22,621,503.83
Excess (Deficiency) of Receipts Over Disbursements	(8,056,556.72)	7,465,394.15
Cash Balances at Beginning of Year	27,898,257.29	20,432,863.14
Cash Balances at End of Year	19,841,700.57	27,898,257.29
Reserved for Year-End Obligations	(5,152,115.74)	(4,292,800.56)
Unreserved Cash Balances at End of Year	\$ 14,689,584.83	\$ 23,605,456.73

Official
October 1, 2016 through September 30, 2018

Official

Mr. Jim L. Ridling

Commissioner

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