

Report on the

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

October 1, 2018 through September 30, 2020

Filed: July 16, 2021



**Department of
Examiners of Public Accounts**

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Rachel Laurie Riddle, Chief Examiner



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

Dear Madam:

An examination was conducted on the Department of Insurance, Montgomery, Alabama, for the period October 1, 2018 through September 30, 2020, by Examiners Emily Christine Kilpatrick, Troy Eastman, and Gerald Dedon. I, Emily Christine Kilpatrick, served as Examiner-in-Charge on the engagement, and under the authority of the *Code of Alabama 1975*, Section 41-5A-19, I hereby swear to and submit this report to you on the results of the examination.

Respectfully submitted,

A handwritten signature in blue ink, which appears to read 'Emily Christine Kilpatrick'.

Emily Christine Kilpatrick
Examiner of Public Accounts

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Department of
Examiners of Public Accounts

SUMMARY

**Department of Insurance
October 1, 2018 through September 30, 2020**

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 the Department’s compliance 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. Our examination was performed to determine 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

The following instances of noncompliance with State laws and regulations and other matters were found during the examination, as shown on the Schedule of State Legal Compliance and Other Findings and they are summarized below.

- ◆ 2020-001 Relates to the Department not submitting annual reports to the Department of Archives and History.
- ◆ 2020-002 Relates to the Department not reporting sensitive items to the State Auditor’s Office and not adding the items to the Department’s property inventory listing.

EXIT CONFERENCE

Mr. Jim Ridling, Commissioner, was invited to an exit conference held on June 24, 2021. Individuals in attendance were Jim Ridling, Commissioner; Mark Fowler, Deputy Commissioner; Reyn Norman, General Counsel; Nicole Boswell, Accounting Manager; Richard Ford, Chief Insurance Examiner; Jimmy W. Gunn, Insurance Registration Manager; Scott Pilgreen, State Fire Marshall; and Mark Drinkard, Deputy Fire Marshall, along with Robin Hutcheson, Emily Kilpatrick and Troy Eastman from the Department of Examiners of Public Accounts.



Department of
Examiners of Public Accounts

COMMENTS

**Department of Insurance
October 1, 2018 through September 30, 2020**

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 27-2-39.
- ◆ **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 27-17-1 through 27-17-16 and 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.
- ◆ Regulation, licensing, and permitting of the storage, sale, and use of fireworks, pyrotechnics, 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; 8-17-230 through 8-17-239; 8-17-240 through 8-17-256; 34-33-1 through 34-33-14; 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, housed within the Fire Marshal's office, 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. The program is administered by the Department under the authority of the *Code of Alabama 1975*, Sections 27-31E-1 through 27-31E-3.

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(d), 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.

The Department owned nonconsumable personal property consisting of automobiles, office furniture, computers, and equipment. A comparison was done of nonconsumable personal property in the custody of the Department with property records maintained by the Property Inventory Division of the State Auditor's Office. Discrepancies were noted and are presented in the Schedule of State Legal Compliance and Other Findings.

*Schedule of State Legal
Compliance and Other Findings*

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2020

Ref. No.	Finding/Noncompliance
2020-001	<p><u>Finding:</u></p> <p>The Department did not submit an annual Records Disposition Authority (RDA) Implementation Report to the Department of Archives and History by January 15, 2019 and January 15, 2020 for the prior fiscal years. As a result, the agency destroyed records without the knowledge of the Department of Archives and History.</p> <p>The <i>Code of Alabama 1975</i>, Section 41-13-21 states, "No state officer or agency head shall cause any state record to be destroyed or otherwise disposed of without first obtaining approval of the State Records Commission." This approval takes the form of a Records Disposition Authority (RDA), which is a formal document that specifies the retention period for each type of record produced by a state agency.</p> <p>According to the Department of Alabama Archives and History, "RDA's constitute authorization by the State Records Commission for the disposition of records of the agency as stipulated in the document. One condition of the authorization is that all state agencies submit an annual RDA Implementation Report to the Alabama Department of Archives and History on January 15 for the previous fiscal year."</p> <p><u>Recommendation:</u></p> <p>The Department should file an annual report with the Department of Archives and History on January 15 for the previous fiscal year.</p>

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2020

Ref. No.	Finding/Noncompliance
2020-002	<p><u>Finding:</u></p> <p>The property manager did not assign property numbers, affix property numbers and barcodes, and report receipt of eighty-one external hard drives purchased in 2018 and 2019 to the State Auditor’s Office. As a result, the State Auditor’s Office was unaware of the purchases and the external hard drives could be subject to loss or theft. Fifty-eight external hard drives were assigned property numbers and added to the Department’s property inventory listing in May 2021.</p> <p>According to the State Auditor's Office Property Inventory Manual Section V(B)(1), “Within 30 days of receiving an item of furniture, equipment, or vehicle having a value of \$500 or more; all weapons regardless of cost; all computers, laptops, servers, notebooks, iPads, <i>external hard drives regardless of cost</i> ... the Property Manager shall take the following actions:</p> <ul style="list-style-type: none">(a) Assign a state asset/property number.(b) Affix the property number and barcode label on the item.(c) Report receipt of item(s) to the State Auditor’s Office using the automated Asset Management System (AMS).” <p><u>Recommendation:</u></p> <p>The Department should assign property numbers, affix property labels, and report all items deemed sensitive to the State Auditor’s Office within 30 days of receiving the items.</p>

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Schedule of Cash Receipts, Disbursements and Balances
For the Period October 1, 2018 through September 30, 2020

	2019-2020	2018-2019
<u>Receipts</u>		
Examination Fees	\$ 4,420,571.76	\$ 5,487,766.49
Licensure Fees	22,598,873.00	20,501,774.00
Fire Marshal Permit/Licensure Fees	434,940.00	487,880.00
Insurance Premium Tax	1,011,013.85	971,188.73
Preneed Funeral and Cemetery Fees	44,830.00	75,550.00
Cigarette Certification Fee	18,700.00	85,700.00
Insurance Fraud Assessment	286,000.00	283,800.00
Penalties and Fines	123,480.00	121,957.00
Document/Printing/Publication/Filing Fees	118,668.00	121,030.12
Alabama Insurance Underwriting Association Contribution	135,000.00	
Transfers from Fund 0921	7,000,000.00	5,000,000.00
Prior Year Refunds	21,499.37	13,246.26
Insurance Recoveries/Reimbursements	17,115.04	58,309.35
Recyclables/Salvage	56,343.58	645.09
Administrative Settlement	50.00	50.00
Crime Victim Compensation Fees		426.54
Docket Court Fees	50.00	
Policy Approval Fees	1,200.00	
Total	<u>36,288,334.60</u>	<u>33,209,323.58</u>
<u>Disbursements</u>		
Personnel Costs	9,907,651.16	9,767,030.80
Employee Benefits	3,880,730.12	3,778,692.16
Travel, In-State	214,815.19	466,120.36
Travel, Out-of-State	147,900.31	124,710.83
Repairs and Maintenance	25,817.45	10,352.44
Rentals and Leases	1,887,707.24	1,798,576.17
Utilities and Communication	237,485.26	258,266.45
Professional Services	1,217,974.74	655,838.20
Supplies, Materials, and Operating Expenses	478,883.31	450,305.43
Transportation Equipment Operation	115,939.37	140,217.57
Grants and Benefits	6,712,774.01	2,723,094.50
Transportation Equipment Purchases	271,633.45	196,994.09
Other Equipment Purchases	183,613.67	520,093.09
Transfers	12,237,746.54	8,573,368.19
Total	<u>37,520,671.82</u>	<u>29,463,660.28</u>
Excess (Deficiency) of Receipts Over Disbursements	(1,232,337.22)	3,745,663.30
Cash Balances at Beginning of Year	<u>23,587,363.87</u>	<u>19,841,700.57</u>
Cash Balances at End of Year	22,355,026.65	23,587,363.87
Reserved for Unpaid Obligations	<u>(7,691,951.20)</u>	<u>(5,627,326.57)</u>
Unreserved Cash Balances at Year-End	<u>\$ 14,663,075.45</u>	<u>\$ 17,960,037.30</u>

Official
October 1, 2018 through September 30, 2020

Official

Mr. Jim L. Ridling

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