



Nicole Galloway, CPA

Missouri State Auditor

DEPARTMENT OF COMMERCE AND INSURANCE

Insurance

Report No. 2022-040

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Nicole Galloway, CPA
Missouri State Auditor

CITIZENS SUMMARY

Findings in the audit of the Department of Commerce and Insurance - Insurance

Background	The Department of Commerce and Insurance - Insurance regulates the insurance industry in the state through enforcement of Chapters 325, 354, and 374 through 385, RSMo. The department regulates and licenses the insurance industry in the state, ensures the insurance industry is financially sound, trustworthy, competent, and responsive to the insurance-buying public; and ensures the insurance industry complies with the laws of the state.
Findings	The audit identified no significant deficiencies in internal controls, no significant noncompliance with legal provisions, and no significant deficiencies in management practices and procedures. No findings resulted from this audit.

In the areas audited, the overall performance of this entity was **Excellent**.*

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

Department of Commerce and Insurance - Insurance

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NICOLE GALLOWAY, CPA

Missouri State Auditor

Honorable Michael L. Parson, Governor
and
Chlora Lindley Myers, Director
Department of Commerce and Insurance
Jefferson City, Missouri

We have audited certain operations of the Department of Commerce and Insurance - Insurance, as required by Section 374.250.2, RSMo and in fulfillment of our duties under Chapter 29, RSMo. The scope of our audit included, but was not necessarily limited to, the year ended June 30, 2021. The objectives of our audit were to:

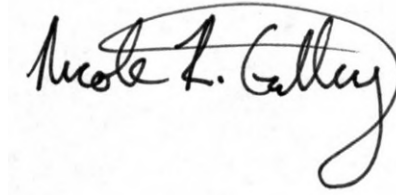
1. Evaluate the department's internal controls over significant management and financial functions of the Insurance Dedicated Fund, the Insurance Examiners' Fund, and taxes certified or collected under Sections 148.310 to 148.461, RSMo (foreign and domestic insurance premium taxes) and Sections 384.011 to 384.071, RSMo (surplus lines premium taxes).
2. Evaluate the department's compliance with certain legal provisions.
3. Evaluate the economy and efficiency of certain management practices and procedures, including certain financial transactions of the Insurance Dedicated Fund and Insurance Examiners' Fund.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the department, as well as certain external parties; and performing sample testing using haphazard and judgmental selection, as appropriate. The results of our sample testing cannot be projected to the entire populations from which the test items were selected. We obtained an understanding of internal control that is significant to the audit objectives and planned and performed procedures to assess internal control to the extent necessary to address our audit objectives. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of applicable contract, grant agreement, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the department's management and was not subjected to the procedures applied in our audit of the department.

For the areas audited, we identified (1) no significant deficiencies in internal controls, (2) no significant noncompliance with legal provisions, and (3) no significant deficiencies in management practices and procedures. No findings resulted from our audit of the Department of Commerce and Insurance - Insurance.

A handwritten signature in black ink, reading "Nicole R. Galloway". The signature is written in a cursive style with a large, looping "G" at the end.

Nicole R. Galloway, CPA
State Auditor

Department of Commerce and Insurance - Insurance Organization and Statistical Information

The Missouri Division of Insurance was created by an act of the Missouri legislature in 1869. With the enactment of the state Omnibus Reorganization Act of 1974, the agency was transferred to the Department of Consumer Affairs, Regulation and Licensing. Constitutional Amendment No. 6 passed in August 1984, amended Missouri Constitution, Article IV, Section 36(a) to change the name of the Department of Consumer Affairs, Regulation and Licensing, to the Department of Economic Development, effective September 7, 1984. Constitutional Amendment No. 4 passed in August 1990, created a new Department of Insurance, effective July 1, 1991. Executive Order 06-04 consolidated the former Department of Insurance, the Division of Finance, the State Banking Board, the Division of Credit Unions, and the Division of Professional Registration into one department and changed the name of the department to the Missouri Department of Insurance, Financial Institutions, and Professional Registration (DIFP), effective August 28, 2006. Executive Order 19-02 transferred the Office of Public Counsel and the Public Service Commission to the DIFP and changed the name to the Department of Commerce and Insurance (DCI), effective August 28, 2019.

The DCI-Insurance operates under the authority of Chapter 374, RSMo. The management and control of the DCI is vested in a director who is nominated by the Governor with the advice and consent of the Senate. Chlora Lindley-Myers was appointed Director on March 6, 2017, and continues to serve in that capacity.

As of June 30, 2021, there were 566 domestic, 2,856 foreign, and 495 alien companies licensed and/or regulated by the DCI-Insurance in Missouri. Insurers with primary corporate headquarters located in a particular state are called domestic insurers. Foreign and alien insurers are those that are allowed to sell insurance in a state but have a primary legal residence in another state or country.

The DCI-Insurance regulates the insurance industry in the state through enforcement of Chapters 325, 354, and 374 through 385, RSMo. The department regulates and licenses the insurance industry in the state, ensures the insurance industry is financially sound, trustworthy, competent, and responsive to the insurance-buying public, and ensures the insurance industry complies with the laws of the state.

To fulfill these responsibilities, the department maintains a central office in Jefferson City and branch offices in St. Louis and Kansas City. The DCI-Insurance is organized into the following divisions: Insurance Consumer Affairs, Insurance Market Regulation, Insurance Company Regulation, and Administration. The DCI-Insurance had 177 employees as of June 30, 2021.



Department of Commerce and Insurance - Insurance
Organization and Statistical Information

The following table provides a breakdown of the type of companies licensed and/or regulated by DCI-Insurance in the state.

Type of Company	Missouri		
	Domicile	Foreign	Alien
Third Party Administrator	38	408	12
Fraternal Benefit	1	27	1
Reinsurer	0	44	314
Property and Casualty	40	918	0
Rating Organization	3	23	0
Advisory Organization	2	9	0
Health Services Corporation	1	0	0
Life Care Facility	9	0	0
Purchasing Group	10	272	0
Reinsurance Intermediary	9	9	5
Title	1	23	0
Statutorily Created Entity	7	1	0
Discount Medical Plan	0	30	0
Health Maintenance Organization	18	16	0
Prepaid Dental	6	9	0
Risk Retention Group	0	106	0
Excess/Surplus Lines	0	181	159
Multiple Employee Self-Insured Health Plan	1	0	0
Captive Insurance	50	0	2
Mutual Property Insurance Company	77	0	0
Professional Malpractice Assessable	5	0	0
Risk Management Association	0	1	0
Life and Health	28	445	2
Self Insured Political Subdivision Assessable	12	0	0
Domestic Surplus Lines Insurer	3	0	0
Motor Vehicle Service Contract Provider	43	136	0
Product Service Contract Provider	6	73	0
Vehicle Protection Product Provider	3	60	0
Worker's Compensation	192	47	0
Pharmacy Benefits Manager	1	18	0
Total	566	2,856	495

The DCI-Insurance administers transactions in the following funds:

The Insurance Examiner's Fund is authorized by Sections 374.160 and 374.162, RSMo, to receive all payments to the state by insurance companies for the costs incurred by the department in conducting examinations, valuations, or proceedings against such companies. Expenditures, authorized by appropriations, are to be used for the purpose of paying the compensation of insurance examiners and expenses directly related to examinations. Any



Department of Commerce and Insurance - Insurance
Organization and Statistical Information

unexpended balances in this fund are perpetually maintained for the purposes of this fund.

The Insurance Dedicated Fund is authorized by Section 374.150, RSMo, to receive all fees due to the state under the provisions of the insurance laws. Appropriations from this fund are to be used solely for payment of expenditures incurred by the department in performing the duties required by law that are not paid for by another source of funds. Any unexpended balance in this fund is perpetually maintained for the purposes of this fund unless, and then only to the extent to which, the unencumbered balance at the close of the biennium year exceeds two times the total amount appropriated, paid, or transferred to the fund during such fiscal year.

The DCI-Insurance administers programs financed partially by federal funding placed in the Federal Missouri Department of Commerce and Insurance Fund. The department receives appropriations from this fund.

The DCI-Administrative Fund is used to account for department-wide expenditures for budget, legislative coordination, public information, accounting, human resources, and department management. The fund receives monies through a cost allocation to the divisions within the DCI.

The DCI-Insurance does not receive any appropriations from the General Revenue Fund and does not maintain any proprietary interest in that fund. Receipts collected by the Department of Revenue (DOR) on behalf of the department include the following:

- Premium Taxes (foreign and domestic): In accordance with various provisions of Chapter 148 RSMo, insurance companies licensed in the state are required to pay a 2 percent tax on direct premiums received during the calendar year. The department certifies to the DOR the amount of premium taxes due together with the amount of quarterly installments to be paid by the insurance companies. The DOR collects the premium taxes and deposits them into the General Revenue Fund. Some premium taxes deposited into the General Revenue Fund are not available for general revenue purposes. The provisions of Chapter 148, RSMo, restrict about 50 percent of such premium taxes for distribution to the various school districts in the state. In addition, beginning January 1, 2020 through December 31, 2020, Section 192.385.2, RSMo, further restricted 2.5 percent of domestic premium taxes deposited into the General Revenue Fund for distribution to the Senior Services Growth and Development Program Fund. Beginning January 1, 2021, Section 192.385.2 RSMo, provided for 5 percent of those taxes to be distributed to the fund.



Department of Commerce and Insurance - Insurance
Organization and Statistical Information

- **Domestic Stock Company Premium Taxes:** In accordance with various provisions of Chapter 148, RSMo, every stock insurance company organized under the provisions of Sections 379.010 to 379.203, RSMo, are required to pay a 2 percent tax on direct premiums received during the year. The department certifies to the DOR the amount of premium taxes due together with the amount of quarterly installments to be paid by the domestic stock insurance companies. The DOR collects the domestic stock company premium taxes and deposits them into the Financial Institutions Tax Fund as county stock insurance taxes. In accordance with Section 148.330.4, RSMo, domestic stock premium taxes credited to the County Stock Insurance Fund are to be apportioned to the General Revenue Fund of the state, to the county treasurer and to the treasurer of the school district in which the principal office of the company paying the same is located. Apportionments are made based on the ratio of taxes levied by each respective entity. In addition, beginning January 1, 2020 through December 31, 2020, Section 192.385.2, RSMo, further restricted 2.5 percent of domestic stock company premium taxes deposited into the Financial Institutions Tax Fund for distribution to the Senior Services Growth and Development Program Fund. Beginning January 1, 2021, Section 192.385.2 RSMo, provided for 5 percent of those taxes to be distributed to the Senior Services Growth and Development Program Fund.
- **Captive Insurance Premium Taxes:** In accordance with Section 379.1326 RSMo, captive insurance companies licensed in the state are required to pay a premium tax at the rate of thirty-eight-hundredths of 1 percent on the first \$20 million and two hundred eighty-five-thousandths of 1 percent on the next \$20 million, and nineteen-hundredths of 1 percent on the next \$20 million dollars, and seventy-two-thousandths of 1 percent on each dollar thereafter on the direct premiums received during the calendar year. The department certifies to the DOR the amount of premium taxes due to be paid annually by the captive insurance companies. The DOR collects the captive insurance premium taxes and deposits them into the General Revenue Fund. Some captive insurance premium taxes initially deposited into the General Revenue Fund are not available for general revenue purposes. The provisions of Chapter 379, RSMo, require 10 percent of these premium tax collections be deposited to the Insurance Dedicated Fund annually.
- **Special Purpose Life Insurance Captive (SPLRC) Premium Taxes:** In accordance with Section 379.1412, RSMo, each SPLRC is required to pay a premium tax at the rate of two hundred fourteen-thousandths of 1 percent on the first \$20 million of assumed reinsurance premium, and one hundred forty-three-thousandths of 1 percent on the next \$20 million, and forty-eight-thousandths of 1 percent on the next \$20 million, and twenty-four-thousandths of 1 percent of each dollar thereafter on the direct



Department of Commerce and Insurance - Insurance
Organization and Statistical Information

premiums received during the calendar year. The department certifies to the DOR the amount of premium taxes due to be paid annually by the SPLRC insurance companies. The DOR collects the SPLRC premium taxes and deposits them into the General Revenue Fund. Some SPLRC premium taxes initially deposited into the General Revenue Fund are not available for general revenue purposes. The provisions of Chapter 379, RSMo, require ten percent of these premium tax collections be deposited to the Insurance Dedicated Fund annually.

- **Surplus Lines Premium Taxes:** In accordance with the various provisions of Chapter 384, RSMo, surplus lines insurers are required to pay a 5 percent tax on net premiums for high risk insurance that is underwritten. The DOR collects the surplus lines premium taxes, interest, and penalties. The DOR deposits surplus lines premium taxes and interest into the General Revenue Fund and surplus lines penalties into the State School Moneys Fund.

Fines and forfeitures imposed and collected by the department under the Missouri Insurance Code are deposited into the State School Moneys Fund.

The DCI-Insurance is authorized to administer Missouri chartered insurance companies requiring rehabilitation or liquidation, commonly referred to as receiverships. Eight insurance companies were in receivership during the year ended June 30, 2021. Companies placed into receivership are under circuit court supervision with the judge appointing the Director as receiver. The Director may appoint a special deputy receiver or agent. Four of the companies did not have a special deputy receiver assigned to them. The department handled the day-to-day operations for one of these companies and contracted with vendors to act as agents for the other three. Four of the companies had a court-assigned special deputy receiver that directly supervised them. The contracted vendors and the special deputy receivers submit disbursements to DCI-Insurance for approval.

According to the National Association of Insurance Commissioners (NAIC), for calendar year 2020 Missouri ranked ninth nationally in the number of insurance companies incorporated in the state. The department's budget for fiscal year 2021 ranks twenty-fourth nationally.

Appendix A

Department of Commerce and Insurance - Insurance Statement of Receipts, Disbursements, and Changes in Cash and Investments Year Ended June 30, 2021

	Federal DCI Fund	Insurance Examiners Fund	Insurance Dedicated Fund	DCI Administrative Fund	Total (Memorandum Only)
Receipts	\$ 1,399,193	4,248,787	21,480,801	19	27,128,800
Disbursements	1,400,000	3,012,067	11,193,806	162,455	15,768,328
Receipts Over (Under) Disbursements	(807)	1,236,720	10,286,995	(162,436)	11,360,472
Transfers In ¹	0	0	0	229,148	229,148
Transfers Out ²	0	(1,377,014)	(5,043,659)	(75,847)	(6,496,520)
Receipts Over (Under) Disbursements and Transfers	(807)	(140,294)	5,243,336	(9,135)	5,093,100
Cash and Investments, July 1	30,807	917,803	5,721,108	9,135	6,678,853
Cash and Investments, June 30	\$ 30,000	777,509	10,964,444	0	11,771,953

¹ Transfers In to the DCI Administrative Fund include transfers from divisions within DCI for department administration.

² Transfers Out generally include payments for fringe benefits and the state's cost allocation plan.

Appendix B

Department of Commerce and Insurance - Insurance Statement of Receipts Year Ended June 30, 2021

	General Revenue Fund	Insurance Dedicated Fund	State School Moneys Fund	Financial Institutions Tax Fund	Total (Memorandum Only)
RECEIPTS					
Premium taxes (foreign and domestic)	\$ 301,591,990	0	0	0	301,591,990
Domestic stock company premium taxes	0	0	0	12,737,546	12,737,546
Captive insurance premium taxes	1,137,724	126,550	0	0	1,264,274
Special purpose life insurance premium taxes	779,258	86,584	0	0	865,842
Surplus lines premium taxes	47,503,916	0	0	0	47,503,916
Surplus lines penalties	0	0	114,424	0	114,424
Fines and forfeitures	0	0	1,038,601	0	1,038,601
Total Receipts	<u>\$ 351,012,888</u>	<u>213,134</u>	<u>1,153,025</u>	<u>12,737,546</u>	<u>365,116,593</u>

Appendix C

Department of Commerce and Insurance - Insurance Comparative Statement of Appropriations and Expenditures

	Year Ended June 30,					
	2021			2020		
	Appropriation Authority	Expenditures	Lapsed Balances	Appropriation Authority	Expenditures	Lapsed Balances
FEDERAL - DCI FUND						
Health Insurance Counseling	\$ 1,400,000	1,400,000	0	1,250,000	1,250,000	0
Total Federal - DCI Fund	1,400,000	1,400,000	0	1,250,000	1,250,000	0
INSURANCE EXAMINERS FUND						
Personal Service	3,586,482	2,719,310	867,172	3,534,252	2,656,173	878,079
Expense and Equipment	711,625	26,939	684,686	767,448	95,316	672,132
Insurance Leasing	7,515	5,437	2,078	7,870	6,417	1,453
IT Consolidation Expense and Equipment	124,116	124,103	13	121,328	61,548	59,780
Performance Rewards ¹	0	0	0	1,256	1,256	0
Refunds	60,000	37,124	22,876	60,000	0	60,000
State Office Building Rent, Maintenance, and Repair	99,915	97,899	2,016	96,784	96,784	0
Total Insurance Examiners Fund	4,589,653	3,010,812	1,578,841	4,588,938	2,917,494	1,671,444
INSURANCE DEDICATED FUND						
Personal Service	9,180,623	8,866,282	314,341	9,009,870	8,837,386	172,484
Expense and Equipment	1,919,657	706,995	1,212,662	1,992,410	1,076,236	916,174
Governor's Office Personal Service ²	11,687	9,781	1,906	11,516	6,376	5,140
Insurance IT Projects	0	0	0	1	0	1
IT Consolidation Personal Service	563,870	254,271	309,599	428,822	195,064	233,758
IT Consolidation Expense and Equipment	401,043	262,984	138,059	401,042	350,297	50,745
Insurance IT Projects Personal Service	0	0	0	121,286	91,724	29,562
Performance Rewards ¹	0	0	0	4,691	4,690	1
Unemployment Benefits	12,440	6,080	6,360	20,000	0	20,000
Insurance Leasing	4,947	4,947	0	5,390	5,390	0
Refunds	75,000	27,485	47,515	75,000	34,478	40,522
Health Insurance Counseling	200,000	200,000	0	200,000	200,000	0
State Office Building Rent, Maintenance, and Repair	355,608	355,607	1	350,773	350,773	0
Poison Control Hotline ³	500,000	500,000	0	500,000	500,000	0
Total Insurance Dedicated Fund	13,224,875	11,194,432	2,030,443	13,120,801	11,652,414	1,468,387
Total All Funds	\$ 19,214,528	15,605,244	3,609,284	18,959,739	15,819,908	3,139,831

¹ The Office of Administration has spending authority for this one-time authorization to develop and implement an employee performance review system to be used by all executive departments within the state.

² The Governor's office has spending authority for this appropriation.

³ The Department of Health and Senior Services has spending authority for this appropriation.

Appendix D

Department of Commerce and Insurance - Insurance Comparative Statement of Expenditures (From Appropriations)

	Year Ended June 30,				
	2021	2020	2019	2018	2017
Salaries and wages	\$ 11,849,644	11,786,723	11,398,749	11,105,824	11,478,487
Travel, in-state	4,379	59,836	133,135	136,446	185,589
Travel, out-of-state	0	115,726	174,221	147,363	243,713
Supplies	149,362	158,375	158,837	162,029	172,941
Professional development	124,277	100,240	114,233	99,787	97,762
Communication services and supplies	134,976	117,313	105,878	95,668	139,443
Services:					
Professional	506,313	707,865	596,351	443,603	838,856
Housekeeping and janitorial	131	226	200	413	107
Maintenance and repair	77,797	120,568	64,271	86,784	132,553
Equipment:					
Computer	98,712	107,318	29,087	170,794	1,916
Office	3,192	36,145	53,791	11,647	30,539
Other	18,909	33,495	10,321	13,301	8,292
Property and improvements	2,745	16,224	29,448	0	0
Debt service	927	758	0	0	0
Building lease payments	463,042	467,688	476,874	457,804	442,960
Equipment rental and leases	0	0	228	456	2,280
Miscellaneous expenses	149	6,930	1,474	4,659	3,156
Refunds	64,609	34,478	12,328	13,965	9,828
Program distributions	2,106,080	1,950,000	1,919,840	1,869,462	2,426,400
Total Expenditures	\$ <u>15,605,244</u>	<u>15,819,908</u>	<u>15,279,266</u>	<u>14,820,005</u>	<u>16,214,822</u>