

# COMMISSIONER OF SECURITIES & INSURANCE

MONICA J. LINDEEN  
COMMISSIONER



OFFICE OF THE MONTANA  
STATE AUDITOR

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## ADVISORY MEMORANDUM

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**To:** All Property and Casualty Insurance Carriers

**From:** Monica J. Lindeen, Commissioner of Securities and Insurance  
Office of the Montana State Auditor

**Date:** January 5, 2016

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### AUTO REPAIR ESTIMATING SYSTEMS AND MARKET PRICE

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It has come to the attention of the office of the Commissioner of Securities and Insurance, Montana State Auditor, (CSI) that some insurers operating in the State of Montana may be unilaterally disregarding repair operations identified in auto repair estimating systems, which is prohibited by Mont. Code Ann. § 33-18-224(1)(a)(iii).

Specifically, auto repair estimating systems do not dictate market price. Instead, market price, defined in § 33-18-222(1), is:

- (a) the price agreed upon between the insurer and the business; or
- (b) the prevailing competitive rate that is reasonable and necessary in the local area where the repairs are to be performed.

Accordingly, insurers who unilaterally disregard repair operations because such operations are not standard and customary charges in the market are in violation of the foregoing provisions. Additionally, the definition of market price does not mean insurers or adjusters are in compliance with Montana law by obtaining an estimate for the lowest cost from another business in the same market area. Instead, for purposes of § 33-18-222(1)(b), market price must be determined by the manufacturer's list price on parts, prevailing surveyed labor rates, material usage, and markup on sublet.

For any questions regarding this advisory memorandum, call the CSI Legal Bureau at (406) 444-2040.