

# COMMISSIONER OF SECURITIES & INSURANCE

MONICA J. LINDEEN  
COMMISSIONER



OFFICE OF THE MONTANA  
STATE AUDITOR

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## Advisory Memorandum

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

**From:** MONICA J. LINDEEN - Commissioner of Securities and Insurance,  
Montana State Auditor (CSI)

**Date:** July 23, 2012

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### Montana Code § 33-18-223 Prohibited Activities – Glass Broker Defined

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Pursuant to Mont. Code Ann. § 33-18-223, it is unlawful for an insurance company to engage in certain conduct related to auto glass replacement or glass repair work. To the extent this statute is violated, the CSI will pursue the relief outlined below.

The above statute specifically provides:

- (1) It is unlawful for an insurance company, individually or with others, to directly or indirectly:
  - (a) establish an agreement with any person to act as a glass broker for the insurance company under which the glass broker sets a price that must be met by a glass repair shop as a condition for doing glass replacement or glass repair work for the insurance company;
  - (b) establish an agreement with a glass broker that requires a glass repair shop to bill through that glass broker as a condition of doing glass replacement or glass repair work; or
  - (c) establish a price that must be met by a glass repair shop as a condition for doing glass replacement or glass repair work that is below the market price as provided in 33-18-222.
- (2) As used in this section, "glass broker" means an automobile glass company that acts as a third-party agent for the insurer whenever the glass broker enters into agreements with other automobile glass dealers to perform glass replacement or glass repair work.

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Violations of Mont. Code Ann. § 33-18-223 may result in the following:

- An administrative action for unfair trade practices;
- A cease and desist order under Mont. Code Ann. § § 33-18-1006, -1004;
- A penalty up to \$5,000 for each violation by an adjuster or \$25,000 for a violation by an insurance company;
- Violations of a cease and desist order may result in a civil penalty not to exceed \$1,000 per day or \$10,000 in the aggregate, under Mont. Code Ann. § 33-18-1005.

If you have questions, please call the CSI Legal Bureau at (406) 444-2040.