



COMMISSIONER OF SECURITIES AND INSURANCE

Troy Downing
Commissioner

Office of the
Montana State Auditor

ADVISORY MEMORANDUM

To: ALL LICENSED PROPERTY AND CASUALTY INSURERS

From: TROY DOWNING
Commissioner of Securities and Insurance, Montana State Auditor

Date: August 14, 2023

Advisory Memorandum Regarding Insurance Refusals and Wildfire Risks

An active wildfire season is impacting the Montana insurance marketplace. Previous Insurance Commissioners have relied on an advisory memorandum originally issued in the year 2000 that prohibited insurance companies from refusing to issue policies in areas which do not have a substantially increased risk of loss due to wildfires. This prohibition protects Montana insurance consumers from unfair discrimination. Troy Downing, Commissioner of Securities and Insurance, Montana State Auditor, hereby restates this prohibition to protect insurance consumers.

This office has recently received complaints from consumers and agents regarding property and casualty insurers refusing to write new or increased coverage due to the alleged risks of wildfires in Montana. Many of these complaints have come from areas which are not threatened by wildfires, including areas within the city limits of many developed cities and towns. For example, we are aware that some insurers are refusing to offer coverage for properties in Missoula because of the Seeley Lake fire.

Section 33-18-210(7), MCA, states:

"An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:

- (a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or
- (b) the refusal, cancellation, or limitation is required by law or regulatory mandate."

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Any refusal to issue or renew, or any cancellation or limitation on the amount of property or casualty insurance based on the threat of wildfires and which involves property that does not have a substantially increased risk of loss due to wildfires will be investigated for violation of the Montana Insurance Code. This office will aggressively pursue any such violation of this statute.

Insurers are expected to make decisions concerning the issuance, renewal, cancellation, or changes in coverage of property and casualty insurance on a case-by-case basis and with reference to the degree the property involved is actually threatened by wildfire.

Commissioner Downing urges anyone who knows of insurers refusing to issue or renew or cancelling or limiting the amount of property or casualty insurance based on the alleged risks of wildfires in Montana to make a report to this office. A report can be made online at https://csimt.gov/insurance-complaints-fraud_1/, or by calling the Insurance Consumer Services Bureau at (406) 444-2040 or by emailing ics@mt.gov.

This advisory memorandum is informational only and does not enlarge, delimit, or otherwise modify any requirements of applicable law or in any way limit the authority of CSI under applicable law. CSI encourages interested persons to consult with independent legal counsel for guidance on the application of law to any particular circumstances.