



# THE COMMONWEALTH OF MASSACHUSETTS AUTO DAMAGE APPRAISER LICENSING BOARD

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## TO ALL CONCERNED PARTIES

### Re: **Advisory Ruling 2015-1**

The Auto Damage Appraiser Licensing Board (ADALB) is authorized to oversee all motor vehicle damage appraisers in the Commonwealth pursuant to M.G.L. c. 26, § 8G and 212 CMR 2.00, "*The Appraisal and Repair of Damaged Motor Vehicles*", as promulgated by the ADALB. Pursuant to its authority the ADALB is authorized to issue licenses to all motor vehicle damage appraisers in the Commonwealth (licensed appraisers) 212 CMR 2.02, regulate the manner of conducting motor vehicle damage appraisals 212 CMR 2.04, and to issue Advisory Rulings pursuant to 212 CMR 2.01 (3) and M.G.L. c. 30A, § 8. The Commissioner of the Division of Insurance is empowered to issue regulations for the business of insurance and has issued a regulation entitled "STANDARDS FOR THE REPAIR OF DAMAGED MOTOR VEHICLES" 211 CMR 133.00 which, in part, regulates particular manners of repair of damage to motor vehicles. It is the intention of the ADALB to issue an Advisory Ruling consistent with 212 CMR 2.00 and 211 CMR 133.00 to be followed by licensed appraisers.

Pursuant to its authority, the ADALB voted by a majority vote at the Board's meeting held on September 29, 2015, to adopt this Advisory Ruling.

### **ADVISORY RULING**

The Auto Damage Appraiser Licensing Board has passed a motion agreeing that an appraisal conducted by a licensed appraiser needs to follow 212 CMR 2.04 (e) which states in part "The appraiser shall determine which parts are to be used in the repair process in accordance with 211 CMR 133.00. The appraiser shall itemize the cost of all parts, labor, materials, and necessary procedures required to restore the vehicle to pre-accident condition and shall total such items." 212 CMR 2.04 (e) also states "The appraisers representing the insurance company and the registered repair shop selected by the insured to do the repair shall attempt to agree on the estimated cost for such repairs" As such all costs associated with the appraisal shall be negotiated.

One of the items referenced in 212 CMR 2.04 (e) is parts, the ADALB also recognizes the use of used parts is allowed as referenced in 211 CMR 133.04 (2). The ADALB wants to stress that the

211 CMR 133.00 and 212 CMR 2.00 need to be read in its entirety. 211 CMR 133.04 (3)(c) states “the repair will not impair the operational safety of the motor vehicle” The ADALB is concerned that the use of used parts that contain wear items, in certain circumstances, may violate 211 CMR 133.04 (3)(c). We want to further note that the insurance company will be responsible and liable for the use of used parts it mandates. Please note 211 CMR 133.04 (2) states: “If the repairer uses the source and specified part(s) indicated on the appraisal and these parts are later determined by both parties to be unfit for use in the repair, the insurance company shall be responsible for the costs of restoring the parts to usable condition.”

Further, 212 CMR 2.04 (e) mandates all itemized components and all such costs associated with the appraisal shall be negotiated. As such, the use of used parts needs to be negotiated by the appraisers. The ADALB strongly advises that used parts that would impact the operational safety of the motor vehicle should not be used and complete negotiations should occur as mandated.

This Advisory Ruling shall be effective upon posting on the Auto Damage Appraiser Licensing Board public website. Failure to comply with this ruling could result in fines and penalties as provided for by law.

For the ADALB,

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Michael D. Powers, Esq.  
Legal Counsel to the Board