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## WORKERS' COMPENSATION SUBROGATION IN ALL 50 STATES

State	Main Statute	Carrier Sue 3P Directly?	Intervene ?	Carrier Recover UM/UIM Benefits?	Med Mal As 3P?	Legal Mal As 3P?	Recovery Limitations	Employer Negligence	Atty's Fees/Costs	Future Credit	Auto No-Fault	PI SOL
ALABAMA	§25-5-11	Yes, 6 Months after SOL	Yes	No	Yes	No	None	No	Pro Rata <i>Fitch</i> Formula	Yes	No	2 Yrs
ALASKA	§23.30.015	Yes	Yes	Undecided	Undecided	Yes	None	Only if 100%	Pro Rata. Past and Future.	Yes	No	2 Yrs
ARIZONA	§23-1023(D)	Yes, After 1 Year	Yes	No	Yes	No	None	Proportional. Only if Verdict	No	Yes	No	2 Yrs
ARKANSAS	§11-9-410	Yes	Must	Employer's Policy Only	Undecided	Undecided	Made Whole Doctrine	No	Pro Rata	Yes	No	3 Yrs
CALIFORNIA	Labor Code §3852	Yes	Yes	No	No	Undecided	None	Proportional. Only if Verdict.	Apportion, if active.	Yes	No	2 Yrs
COLORADO	§8-41-203	Yes	Yes	No	Yes	No?	None	No	Pro Rata	Yes	Not after 7/1/03	2 Yrs
CONNECTICUT	§31-293	Yes	Must be lien within 30 days.	No	Yes	No	None	No	Yes. 1/3/%	No. Must recover in 3P	No	2 Yrs
DELAWARE	§19 Del. C. 2363	Yes, After 260 Days	Yes	Employer's Policy Only	Yes	No	None	No	Pro Rata	Yes	No	2 Yrs
DISTRICT OF COLUMBIA	§32-1535	6 Months After Award	Yes	No	Yes	Undecided	None	No	None, unless agreed to by carrier.	Yes. May also recover in 3P	Yes	3 Yrs
FLORIDA	§440.39	Yes, Afer 1 Year	No	No	Yes	No	<i>Manfredo</i> Formula. Failure to File Notice of Payment Bars Recovery	No	Pro Rata	Yes. May also recover in 3P	Yes	4 Yrs
GEORGIA	§34-9-11.1	Yes, After 1 Year	Yes	No	Undecided	Undecided	Made Whole Doctrine	No	Pro Rata	No	No	2 Yrs

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HAWAII	§386-8	Yes, After 9 Months	Yes	Yes?	Undecided	Undecided	None	No	Apportion	Yes	Yes	2 Yrs
IDAHO	§72-223	Yes	Yes	Undecided	Yes	Undecided	None	Reduces Lien Recovery	Apportion	Yes	No	2 Yrs
ILLINOIS	§820 I.L.C.S. 305/5 (b)	Yes, 3 Months Before SOL	Yes	No	Yes	No	None	No. <i>Kotecki</i> Contribution Only	Pro Rata. Limited to 25%	Yes. 25% of Future Benefits Owed as Atty's Fees	No	2 Yrs
INDIANA	§22-3-2-13	Yes, 1 Year After SOL	Yes	Employer's Policy Only	Yes	Undecided	Lien Reduction Stat. §34-51-2-19	No	Pro Rata	Yes	No	2 Yrs
IOWA	§85.22	Yes, 90 Days Notice	Yes, If Timely	No	No	No	§ 85.35. Settlement of Comp Claim Bars Subro	No	Pro Rata	Yes. May Also Recover in 3P	No	2 Yrs
KANSAS	§44-504	Yes. After 1 Year (18 Months if Death)	Yes	Only to Substitute Payment	Yes	Undecided	<i>Brabander</i> Formula	Yes. <i>Brabander</i> Formula.	Apportion, if Active.	Yes	Yes	2 Yrs
KENTUCKY	§342.700	Yes	Must	No	Yes	Undecided	None	Yes	Pro Rata	Yes, Only if Lien Exceeds Fees	Yes	1 Yr 2 Yrs for Auto
LOUISIANA	§23:1101, et. seq.	Yes	Must	Employer's Policy Only	Yes	No	Plaintiff's Contributory Reduction 50% of Recovery Limit	Yes	<i>Moody</i> Fees. Pro Rata.	Yes. May Also Recover in 3P	No	1 Yr
MAINE	39-A §107	Yes, After 30-day Demand	Yes	Yes	Yes?	Undecided	None	No	Pro Rata	Yes	No	6 Yrs
MARYLAND	§9-901-903	Yes, First 2 Months	Yes	No	Yes?	Undecided	None	No	Pro Rata, Unless Intervention Necessary.	Yes	No	3 Yrs
MASSACHUSETTS	152 §15	Yes, After 7 Months	No	No	Yes	Undecided	None	No	Apportion	Yes	Yes	3 Yrs
MICHIGAN	§418.827	Yes, After 1 Year	Yes	UM - Yes UIM - No	Yes	No	None	No	Pro Rata	Yes	Yes	3 Yrs

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MINNESOTA	§176.061	Yes	Yes	No	Yes	Yes	Subrogable Elements Only. Naig Settlement	Lambertson Reduction	Pro Rata	Yes	Yes	6 Yrs
MISSISSIPPI	§71-3-71	Yes	Yes	No	Yes	Undecided	None	No	No	Yes	No	3 Yrs
MISSOURI	§287.150	Yes	Yes	Yes?	Yes	Undecided	Ruediger Formula	No	Pro Rata	Yes	No	5 Yrs
MONTANA	§39-71-412	Yes, After 1 year	Yes?	Yes	Undecided	Undecided	Made Whole Doctrine	No	Pro rata, Unless carrier waives 50%	No More 30% Reduction	No	3 Yrs
NEBRASKA	§48-118	Yes	Yes	Employer's Policy Only	Yes	Undecided	Fair and Equitable	No	Pro Rata	Yes	No	4 Yrs
NEVADA	§616C.215	Yes	Yes	Employer's Policy Only	Yes	Undecided	None	No	Breen Formula	Yes	No	2 Yrs
NEW HAMPSHIRE	§281-A:13	Yes, After 9 Months	Yes	Yes	Undecided	Undecided	None	No	"As Justice May Require"	Yes	No	3 Yrs
NEW JERSEY	§34:15-40	Yes, After 1 Year	No	Yes	Yes	Yes	None	No	Pro Rata	Yes	Yes	2 Yrs
NEW MEXICO	§52-5-17	No. Reimb Only	Yes	Employer's Policy Only	Yes?	Undecided	Modified Made Whole Doctrine. Subrogable Elements Only.	Yes	Pro Rata	Yes	No	3 Yrs
NEW YORK	Work Comp §29	Yes, 30 Days Notice	Depends	No	Yes	Yes	None	"Grave Injury" Contribution	Kelly Formula	Yes	Yes	3 Yrs
NORTH CAROLINA	§97-10.2	Yes, After 1 Year	Yes	Yes, for policies after 10/1/99	Undecided	No	"Discretionary Reduction"	Yes §97-10.2(e)	Pro Rata	No. Must Recover in 3P	No	3 Yrs
NORTH DAKOTA	§65-01-09	Yes, After 60 Days	Yes	Undecided	Yes	No	Up to 50% of 3P Recovery	No	25% - 33 1/3%, if Suit Filed	Yes	Yes	6 Yrs
OHIO	§4123.931	Yes	Yes	Yes	Probably	Probably	Proportional. No. Trust Account.	No	Yes	Yes	No	2 Yrs
OKLAHOMA	85 OSA §44	Yes	Yes	No	Yes	Undecided	Equitable Apportion	No	Pro Rata	Only if Recovery More Than Lien	No	2 Yrs
OREGON	§656.593	Yes, 90 Days After Election	No	No	Yes?	Yes	None	No	No Off the Top	No. Must Recover in 3P	No	2 Yrs

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PENNSYLVANIA	77 P.S. §671	Yes	Yes	Employer: Yes Employee: No Other Person: Yes	Causes of Action Prior to 3/20/03	No	None	None	Pro Rata	Yes	Yes	2 Yrs
RHODE ISLAND	§28-35-58	Yes	Yes	No	Yes	Undecided	None	No	Pro Rata	Yes	No	3 Yrs
SOUTH CAROLINA	§42-1-560	Yes, After 1 Year	Yes	No	Undecided	Undecided	Equitable Reduction	No	Set by Commission F2 1/3	Yes	No	3 Yrs
SOUTH DAKOTA	§62-4-38, 39, 40	Yes	Yes	Employer's Policy Only	Undecided	Undecided	None	No	Pro Rata, Up to 35%.	Yes	No	3 Yrs
TENNESSEE	§50-6-112	Yes, After 1 Year	Yes	No	Yes	Undecided	None	No	Pro Rata	Yes	No	1 Yr
TEXAS	§§417.001-417.004	Yes	Yes	Employer's Policy Only	Yes	Yes	None	After 1/1/03 Proportional Reduction	Apportion	Yes. May Recover in 3P	No	2 Yrs
UTAH	§34 A-2-106	Yes	Yes	No	Yes	Undecided	None	40% Rule	Pro Rata	Yes	Yes	4 Yrs
VERMONT	Title 21 §624	Yes, After 1 Year	Yes	Only if Plaintiff is Made Whole	Undecided	Undecided	None	No	Pro Rata	Yes	No	3 Yrs
VIRGINIA	§65.2-309	Yes	Yes	Employer's Policy Only	Yes	Undecided	None	No	Pro Rata	Yes	No	2 Yrs
WASHINGTON	§51.24.030	Yes	Yes	Employer's Policy Only	Yes?	Yes	Made Whole Doctrine	No	Pro Rata	Yes	No	3 Yrs
WEST VIRGINIA	§23-2A-1	Undecided	Probably	Employer's Policy Only	Yes?	Undecided	50% of 3P Recovery Limit	No	Statutory Reduction. § 23-2A-1(b)	No	No	2 Yrs
WISCONSIN	§102.29	Yes	Yes	No	Yes	No	None	No	No	Yes. May Recover In 3P	No	3 Yrs
WYOMING	§27-14-105	Yes, 15 Days Notice	Yes	Undecided	Undecided	Undecided	None	No	No	No. Must Recover in 3P	No	4 Yrs

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