

MOM-RMTD-POL-Assignment of Rights of Recovery

Category: Risk Management

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Issuing Authority: Risk Management & Tort Defense Division

I. Purpose

This policy sets forth the duties and responsibilities of state agencies in resolving claims that arise from third party negligence where the state has an insurable interest.

II. Scope

The Department of Administration is authorized to administer commercial insurance and self-insured programs as it deems appropriate on behalf of all state agencies. This policy provides guidance to agencies for losses stemming from third party negligence.

III. Responsibilities

A. After a state agency has suffered a loss that arises from third party negligence, the state employee most familiar with the incident should immediately notify his/her supervisor and complete a '[Report of Incident](#)' form. For vehicular accidents, guidelines about what information to collect and what to say and do at the accident scene may be found in the '[Accident Form](#)' pamphlet in the vehicle glove box.

B. Follow the procedures and utilize the forms specified in [Property/Casualty Claim Reporting](#). Call the claims staff at the Risk Management and Tort Defense Division if you have any questions (406) 444-2421.

C. Do NOT enter into negotiations with any third party, sign settlement documents, or in any other way agree to resolve your claim with a third party. By doing so, you may waive the state's "Rights of Recovery" against the negligent party. Example: University athletic equipment is damaged during an airline flight from Montana to California. Total damages are estimated at \$3,000. Since each university is responsible for a \$1,000 property deductible, the university assumes that it is responsible for the deductible and settles with the airline for \$2,000 not realizing that it has just waived its right to recover \$1,000 from the airline.

D. Agencies that waive the state's "Right of Recovery" in any claim may be responsible for the entire amount of the loss.

IV. Definitions

Indemnification: a contractual obligation whereby an indemnitor (i.e., an insurance entity) agrees to pay claims in behalf of an indemnitee (i.e., an insured) for a specific loss exposure and for a specific time period.

Insurable Interest: an act, activity, or asset of the state that, in the absence of indemnification by a third party, would have been covered under the state property/casualty insurance program.

Rights of Recovery: a legal right to recover money in a third party claim where the state has an insurable interest.

State: the State of Montana or any office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state ([§2-9-101](#), MCA).

Third Party: an entity other than the state.

Third Party Negligence: a claim that arises from the negligent act or omission of a third party.

Revised by Brett Dahl

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