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SUBROGATION OF UNDERINSURED MOTORIST INSURANCE CLAIMS

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You asked if any states have laws that prohibit the subrogation of underinsured motorist insurance claims. (For information on auto insurance requirements in the United States, including underinsured motorist coverage, see OLR Research Report [2013-R-0258](#).)

Connecticut, Nevada, and Arizona prohibit the subrogation of underinsured motorist insurance claims. All other states appear to allow it, according to Gary L. Wickert, author of the 2012 book *Automobile Insurance Subrogation in All 50 States*. Connecticut and Nevada laws explicitly deny an insurance company the right of subrogation against the owner or operator of the underinsured motor vehicle for underinsured motorist benefits paid or payable by the insurer ([CGS § 38a-336b](#) and Nev. Rev. Stat. 687B.145(4)). Arizona law used to specifically allow subrogation against underinsured motorists. But in 1986, the legislature amended its law to remove an insurer's right of subrogation against an underinsured motorist. The courts have interpreted the repeal of the law as no longer permitting such subrogation (*State Farm Mut. Auto Ins. Co. v. Wilson*, 782 P.2d 727 (Ariz. 1989)).

Underinsured motorist coverage compensates an auto insurance policyholder when an at-fault driver has an insufficient amount of auto insurance to cover expenses related to an accident. Subrogation is the legal doctrine that allows an insurer that has paid a loss under an insurance policy to “step into the shoes of” its insured and pursue recovery from the at-fault driver.

Wickert provides the following example of how subrogation operates:

ABC Insurance Company carries an automobile insurance policy covering its insured X and his vehicle. While driving, X is rear-ended by another vehicle driven by Y and insured by DEF Insurance Company. X suffers personal injuries, incurring \$1,000 in medical expenses, as well as \$2,500 property damage to his vehicle. ABC Insurance Company pays X for the property damage and injuries, a total of \$3,500. ABC Insurance Company is subrogated to X's rights (i.e., steps into the shoes of X) and files a lawsuit against Y for negligence, seeking recovery of \$3,500.

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