



Workers' Compensation Immunity: Key Issues Addressing the Application of Exclusive Remedy Statutes

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Workers' Compensation Immunity State by State Survey:
Key Issues Addressing the Application of Exclusive Remedy Statutes

A fundamental principle of workers' compensation laws is that an employer who provides compensation to an injured employee (pursuant to the applicable state statute) is entitled to immunity from civil actions by that employee or his/her representatives (i.e., an employee's exclusive remedy is workers' compensation benefits). In some jurisdictions, this immunity is extended to upstream parties, such as a project owner or general contractor, under certain circumstances. This survey is intended to examine several key issues with respect to the scope and extent of workers' compensation requirements and immunity across the 50 states. Below is an explanation of each column in our survey:

Type of Workers' Compensation Insurance:

This column addresses whether workers' compensation insurance is provided through: (1) private insurers, (2) a monopolistic state fund (i.e., only the state provides workers' compensation benefits), or (3) competitive state funds (where state owned and operated entities compete with private commercial insurers to write workers' compensation insurance).

Workers' Compensation Exclusive Remedy Statute:

This column references the state statutes which address the extent to which workers' compensation benefits constitute an injured employee's exclusive legal remedy against its direct employer.

Principal/Statutory Employer Doctrine:

This column identifies the state statute or common law obligation that requires certain employers, predominantly contractors, to provide or secure workers' compensation benefits if an entity which they subcontract with fails to provide benefits to its injured employees. Each state's statute has specific nuances and qualifications and the relevant statute should be consulted to determine whether an employer is potentially affected.

Illustrative Example: Imagine that ABC General Contractor hires XYZ Subcontractor to perform plumbing services for a project. One day, XYZ Subcontractor's employee is injured while lifting materials and the employee learns that its direct employer, XYZ Subcontractor, failed to procure workers' compensation insurance and cannot compensate him for his injuries. The principal/statutory employer doctrine requires ABC General Contractor to provide workers' compensation benefits to XYZ Subcontractor's employee because ABC General Contractor is considered the employee's "statutory employer."

Application of Exclusive Remedy Statute to Principal/Statutory Employers:

This column identifies case law applying the exclusive remedy statute to principal/statutory employers and analyzes whether a principal/statutory employer is entitled to the same immunity from civil actions as a direct employer. States typically adopt one of four approaches:

1. Principal/Statutory Employer not entitled to immunity regardless of whether the principal/statutory employer pays for injured employee's workers' compensation benefits.
2. Principal/Statutory Employer entitled to immunity only if the principal/statutory employer pays for injured employee's workers' compensation benefits.
3. Principal/Statutory Employer entitled to immunity regardless of whether the principal/statutory employer pays for injured employee's workers' compensation benefits.
4. The law is unclear/there is no applicable precedent.



Application of Exclusive Remedy Statute to Wrap-Ups:

This column identifies available case law applying the exclusive remedy statute to wrap-up insurance schemes (i.e., owner-controlled insurance programs, “OCIPs”, or contractor-controlled insurance programs, “CCIPs”) and analyzes whether an owner (who provides an OCIP) or a contractor (who provides a CCIP) is entitled to the same immunity from civil actions as a direct employer.

Subrogation Waiver Prohibited by Statute:





This column identifies states that have expressly prohibited waivers of subrogation in workers’ compensation insurance policies.

If you would like further information or wish to discuss any of these issues, please contact any of the following:

- David G. Jordan at (203) 287-2111 or dgj@sdvlaw.com
- Jeffrey J. Vita at (203) 287-2103 or jjv@sdvlaw.com
- K. Alexandra Byrd at (203) 287-2127 or kab@sdvlaw.com

Workers' Compensation Immunity State by State Survey:

Key Issues Addressing the Application of Exclusive Remedy Statutes

STATE	Type of WC Insurance ¹	WC Exclusive Remedy Statute ²	Principal/Statutory Employer Doctrine ³	Application of Exclusive Remedy Statute to Principal/Statutory Employers	Application of Exclusive Remedy Statute to Wrap-Ups ⁴	Subrogation Waiver Prohibited By Statute
 Alabama	Private	Ala. Code § 25-5-53	No statute	Not applicable	No precedent	No
 Alaska	Private	Alaska Stat. § 23.30.055	Alaska Stat. § 23.30.045, subd. (a)	Statutory employer entitled to immunity regardless of actual payment of benefits See <u>Anderson v. Alyeska Pipeline Serv. Co.</u> , 234 P.3d 1282 (Alaska 2010).	No precedent	No
 Arizona	Competitive State Fund	Ariz. Rev. Stat. § 23-1022	Ariz. Rev. Stat. § 23-902	Statutory employers are entitled to immunity, but unclear whether there must be actual payment. See <u>Young v. Environmental Air Prods.</u> , 136 Ariz. 158 (Ariz. 1983) (acknowledging there is a split in authority whether actual payment of benefits is needed to confer immunity); see also <u>Sepulveda v. Ariz. Behavioral Health Sys.</u> , 2007 Ariz. App. Unpub. LEXIS 156 (Ariz. Ct. App. 2007).	No precedent	No
 Arkansas	Private	Ark. Code § 11-9-105	Ark. Code § 11-9-402	Statutory employers likely entitled to immunity only if employee's employer fails to provide benefits and statutory employer subsequently provides benefits. See <u>Stapleton v. M.D. Limbaugh Constr. Co.</u> , 333 Ark. 381 (Ark. 1998).	No precedent	No

¹ This column addresses whether workers' compensation insurance is provided through: (1) private insurers, (2) a monopolistic state fund (i.e., only the state provides workers' compensation benefits), or (3) competitive state funds (where state owned and operated entities compete with private commercial insurers to write workers compensation insurance).





² These statutes address to what extent workers' compensation benefits constitute an injured employee's exclusive remedy under the law.

³ The Principal/Statutory Employer Doctrine typically applies where a company directly employing an injured person does not procure the required workers' compensation insurance and an overseeing entity, such as a general contractor, is required by law to pay the injured person's workers' compensation benefits. This doctrine acts as a safeguard for employees whose direct employers fail to procure adequate insurance.

⁴ This column addresses case law applying the workers' compensation exclusivity doctrine to wrap-up insurance, i.e., owner-controlled insurance programs (OCIPs) and contractor-controlled insurance programs (CCIPs).

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STATE	Type of WC Insurance ¹	WC Exclusive Remedy Statute ²	Principal/Statutory Employer Doctrine ³	Application of Exclusive Remedy Statute to Principal/Statutory Employers	Application of Exclusive Remedy Statute to Wrap-Ups ⁴	Subrogation Waiver Prohibited By Statute
 California	Competitive State Fund	Cal. Lab. Code §§ 3601 and 3602	No statute	Not Applicable	Exclusivity applicable when employer complies with Cal. Lab. Code § 3602(d)(1)	No
 Colorado	Competitive State Fund	Colo. Rev. Stat. § 8-41-102	Colo. Rev. Stat. § 8-41-401	Statutory employer entitled to immunity regardless of actual payment of benefits. See <u>Buzard v. Super Walls, Inc.</u> , 681 P.2d 520 (Colo. 1984).	No precedent	No
 Connecticut	Private	Conn. Gen. Stat. § 31-284	Conn. Gen. Stat. § 31-291	Statute requires principal employer to pay benefits in order to obtain immunity.	Exclusivity applicable to OCIP: <u>Bishel v. Conn. Yankee Atomic Power Co.</u> , 62 Conn. App. 537 (2001), cert. denied, 256 Conn. 915 (2001). Exclusivity applicable to CCIP: <u>Elvira R. Gonzalez et al. v. O and G Industries, Inc. et al.</u> , SC 19377 (Conn. 2016).	No
 Delaware	Private	19 Del. Code § 2304	19 Del. Code § 2311 ⁵	No immunity for upstream parties. See <u>Dickinson v. Eastern Railroad Builders, Inc.</u> , 403 A.2d 717 (Del. 1979).	No precedent	No

⁵ This statute applies the opposite rule (i.e., that the upstream party is not a statutory employer).

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
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District of Columbia	Private	D. C. Code § 32-1504	D.C. Code § 32-1503, subd. (c)	Unclear. Immunity likely if subcontractor fails to secure payment and contractor secures payment for subcontractor's injured employee. <u>See Cole v. Boeing Co.</u> , 845 F. Supp. 2d 277 (D.D.C. 2012) (finding liability of an employer pursuant to D.C. Code § 32-1503 is an exclusive remedy).	Exclusivity not applicable to OCIP: <u>Black v. Kiewit Constr. Co.</u> , No. 89-1834, 1990 U.S. Dist. LEXIS 3951 (D.D.C. Apr. 9, 1990).	No
 Florida	Private	Fla. Stat. § 440.11	Fla. Stat. § 440.10	Statutory employers are entitled to immunity if liable for securing workers' compensation benefits. <u>See Ramos by v. Univision Holdings</u> , 655 So. 2d 89 (Fla. 1995).	Exclusivity may not be applicable to an owner providing an OCIP, because an owner is not statutorily required to purchase insurance for its contractors' employees: <u>Wenzel v. Boyles Galvanizing Co.</u> , 920 F.2d 778 (11th Cir. 1991) (applying Florida law).	No
 Georgia	Private	Ga. Code § 34-9-11	Ga. Code § 34-9-8	Statutory employer entitled to immunity regardless of actual payment of benefits. <u>See Eng. v. Beers Constr. Co.</u> , 224 Ga. App. 44 (Ga. Ct. App. 1996).	Exclusivity not applicable to OCIP: <u>Pogue v. Oglethorpe Power Corp.</u> , 477 S.E.2d 107 (Ga. 1996).	No
 Hawaii	Competitive State Fund	Haw. Rev. Stat. § 386-5	Haw. Rev. Stat. §§ 386-1 (see "employee") and 386-4 (voluntary coverage)	Immunity for upstream party if subcontractor fails to pay benefits and upstream party becomes liable and pays. <u>See Jordan v. Rita</u> , 66 Haw. 568 (Haw. 1983).	No precedent	No

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Key Issues Addressing the Application of Exclusive Remedy Statutes

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 Idaho	Competitive State Fund	Idaho Code § 72-209	Idaho Code § 72-216	Statutory employers entitled to immunity regardless of actual payment of benefits. <u>Fuhriman v. State</u> , 143 Idaho 800 (Idaho 2007).	No precedent	No
 Illinois	Private	820 Ill. Comp. Stat. 305/11	820 Ill. Comp. Stat. 305/1, subd. (a)(3)	No immunity for statutory employers. See <u>Statewide Ins. Co. v. Brendan Constr. Co.</u> , 218 Ill. App. 3d 1055 (Ill. App. Ct. 1st Dist. 1991).	No precedent	No
 Indiana	Private	Ind. Code § 22-3-2-6	Ind. Code § 22-3-2-14	Immunity likely if statutory employer paid benefits. See <u>Lewis v. Lockard</u> , 498 N.E.2d 1024 (Ind. Ct. App. 1986).	Exclusivity not applicable to OCIP: <u>Wolf v. Kajima Int'l Inc.</u> , 621 N.E.2d 1128 (Ind. Ct. App. 1993) <u>opinion adopted</u> , 629 N.E.2d 1237 (Ind. 1994).	No
 Iowa	Private	Iowa Code § 85.20	No statute	Not applicable	No precedent	No
 Kansas	Private	Kan. Stat. § 44-501b	Kan. Stat. § 44-503	Statutory employers entitled to immunity regardless of actual payment of benefits. See <u>Robinett v. Haskell Co.</u> , 270 Kan. 95 (Kan. 2000).	No precedent	Yes, but see Kan. Stat. § 16-1803 for exceptions.

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 Kentucky	Competitive State Fund	Ky. Rev. Stat. § 342.690	Ky. Rev. Stat. § 342.610	Statutory employers entitled to immunity regardless of actual payment of benefits. See <u>Pennington v. Jenkins-Essex Constr., Inc.</u> , 238 S.W.3d 660 (Ky. Ct. App. 2006).	Exclusivity applicable to OCIP: <u>Casey v. Vanderlande Indus.</u> , 2002 U.S. Dist. LEXIS 11956 (W.D. Ky. June 28, 2002) (direct employer entitled to immunity, where workers' compensation insurance was purchased under an OCIP).	Yes, but see Ky. Rev. Stat § 342.700 for applicability.
 Louisiana	Competitive State Fund	La. Rev. Stat. § 23:1032	La. Rev. Stat. § 23:1061	Statutory employer entitled to immunity regardless of actual payment of benefits. See <u>Sibert v. Nat'l Oilwell Varco, L.P.</u> , 136 So. 3d 283 (La. App. 2 Cir. 2014); <u>see also</u> La. Rev. Stat. § 23:1061(a).	No precedent	No
 Maine	Competitive State Fund	Me. Rev. Stat. tit. 39-A, § 104	No statute	Not applicable	No precedent	No, <u>but see</u> Me. Rev. Stat. tit. 39-A, § 107 and <u>Fowler v. Boise Cascade Corp.</u> , 948 F.2d 49 (1st Cir. 1991) (applying Maine Law).
 Maryland	Competitive State Fund	Md. Code, Lab. & Empl. § 9-509	Md. Code, Lab. & Empl. § 9-508	Statutory employer entitled to immunity regardless of actual payment of benefits. See <u>Para v. Richards Group of Wash. Ltd. Partnership</u> , 339 Md. 241 (Md. 1995).	Exclusivity applicable to OCIP: <u>Rodrigues-Novo v. Recchi Am., Inc.</u> , 846 A.2d 1048 (Md. 2004).	No

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 Massachusetts	Private	Mass. Gen. Laws ch. 152, § 24	Mass. Gen. Laws ch. 152, § 18	No immunity for statutory employers. <u>See Wentworth v. Henry C. Becker Custom Bldg. LTD.</u> , 459 Mass. 768 (Mass. 2011).	No precedent	No
 Michigan	Private	Mich. Comp. Laws § 418.131	Mich. Comp. Laws § 418.171	Immunity only if principal employer becomes liable for contractor's failure to provide benefits. <u>See Drewes v. Grand Valley State Colleges</u> , 106 Mich. App. 776 (Mich. Ct. App. 1981).	Exclusivity not applicable: <u>Burger v. Midland Cogeneration Venture</u> , 202 N.W.2d 827 (Mich. Ct. App. 1993); <u>but cf. Stevenson v. HH & N/Turner</u> , No. 01-CV-71705-DT, 2002 U.S. Dist. LEXIS 26831 (E.D. Mich. Apr. 22, 2002); <u>Harmer v. R.E. Dailey Co.</u> , No. 202137, 1998 Mich. App. LEXIS 627 (Mich. Ct. App. Dec. 18, 1998).	No
 Minnesota	Competitive State Fund	Minn. Stat. § 176.031	Minn. Stat. § 176.215	No immunity for statutory employers. <u>See Klemetsen v. Stenberg Constr. Co.</u> , 424 N.W.2d 70 (Minn. 1988); <u>Hallas v. Naegele Outdoor Advertising</u> , 541 N.W.2d 594 (Minn. Ct. App. 1995).	No precedent	No
 Mississippi	Private	Miss. Code § 71-3-9	Miss. Code § 71-3-7	Statutory employer entitled to immunity regardless of actual payment of benefits. <u>See Salyer v. Mason Techs.</u> , 690 So. 2d 1183 (Miss. 1997).	No precedent	No
 Missouri	Competitive State Fund	Mo. Stat. § 287.120	Mo. Stat. § 287.040	Statutory employer entitled to immunity regardless of actual payment of benefits. <u>See Shaw v. Mega Indus., Corp.</u> , 406 S.W.3d 466 (Mo. Ct. App. 2013).	No precedent	Yes, for construction group code classifications. <u>See Mo. Stat. § 287.150(6).</u>

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 Montana	Competitive State Fund	Mont. Code § 39-71-411	Mont. Code § 39-71-405	No immunity for statutory employers. <u>See Webb v. Montana Masonry Constr. Co.</u> , 233 Mont. 198 (Mont. 1988).	No precedent	No
 Nebraska	Private	Neb. Rev. Stat. § 48-111	Neb. Rev. Stat. § 48-116	Statutory employer entitled to immunity regardless of actual payment of benefits. <u>See Culp v. Archer-Daniels-Midlands Co.</u> , 2009 U.S. Dist. LEXIS 32884 (D. Neb. Apr. 17, 2009).	Exclusivity not applicable to OCIP: <u>Culp v. Archer-Daniels-Midlands Co.</u> , 4:08CV3197, 2009 WL 1035246 (D. Neb. Apr. 17, 2009).	No
 Nevada	Private	Nev. Rev. Stat. § 616A.020	Nev. Rev. Stat. §§ 616A.020(3); 616A.210; 616B.603	Statutory employer entitled to immunity regardless of actual payment of benefits. <u>See Oliver v. Barrick Goldstrike Mines</u> , 111 Nev. 1338 (Nev. 1995); <u>see also</u> Nev. Rev. Stat. § 616A.020(3).	Exclusivity applicable to OCIPs: Nev. Rev. Stat. § 616A.020(4); Nev. Rev. Stat. § 616B.612.	No
 New Hampshire	Private	N.H. Rev Stat. § 281-A:8	N.H. Rev Stat. § 281-A:18	No precedent	No precedent	Yes, <u>see</u> N.H. Rev. Stat. § 281-A:13(VI).
 New Jersey	Private	N.J. Stat. § 34:15-8	N.J. Stat. § 34:15-79(a)	No immunity for statutory employers. <u>Boehm v. Witte</u> , 95 N.J. Super. 359, 360 (Law Div. 1967) (Uninsured subcontractor's employee who received compensation award from general contractor may maintain third-party action against general contractor, subject to credit for workers' compensation benefits paid).	No precedent	No, <u>but see</u> N.J. Stat. § 34:15-40 and <u>New Amsterdam Cas. Co. v. Popovich</u> , 113 A.2d 666 (N.J. 1955).
 New Mexico	Competitive State Fund	N.M. Stat. § 52-1-9	N.M. Stat. §§ 52-1-22 and 52-1-23	Immunity if direct employer fails to provide benefits and benefits are paid by statutory employer. <u>Harger v. Structural Servs.</u> , 121 N.M. 657, 666 (N.M. 1996).	No precedent	No

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 New York	Competitive State Fund	N.Y. Workers' Comp. Law § 11	N.Y. Workers' Comp. Law § 56 (for hazardous employment subcontractors)	No immunity under § 56. See <u>Cutillo v. Emory Housing Corp.</u> , 19 Misc. 2d 865 (N.Y. Sup. Ct. 1959).	Exclusivity not applicable to OCIP: <u>Duchenne v. 774 Dev., LLC</u> , No. 21612/01, 2013 N.Y. Misc. LEXIS 6648 (Dec. 13, 2013).	No
 North Carolina	Competitive State Fund	N.C. Gen. Stat. § 97-10.1	N.C. Gen. Stat. § 97-19	Immunity if benefits are paid by statutory employer. See <u>Rich v. R.L. Casey, Inc.</u> , 118 N.C. App. 156 (N.C. Ct. App. 1995).	No precedent	Unclear, see N.C. Gen. Stat § 97-102 and <u>Cook v. Lowe's Home Centers, Inc.</u> , 704 S.E.2d 567 (N.C. Ct. App. 2011) and <u>Anglin v. Dunbar Armored, Inc.</u> , 742 S.E.2d 205 (N.C. Ct. App. 2013).
 North Dakota	Monopolistic State Fund	N.D. Cent. Code § 65-01-01	N.D. Cent. Code § 65-01-02, subd. (16)(c)	Statutory employer entitled to immunity regardless of actual payment of benefits. See <u>Schwarze v. Farm-Rite Implement Co.</u> , 192 F. Supp. 645 (D.N.D. 1960) (notably, a federal court decision).	No precedent	No
 Ohio	Monopolistic State Fund	Ohio Rev. Code § 4123.74	Ohio Rev. Code § 4123.01, subd. (A)(1)(c)	Unclear	Exclusivity applicable to all enrolled subcontractors in a self-insured construction project plan pursuant to O.R.C. § 4123.35. See <u>Stolz v. J & B Steel Erectors, Inc.</u> , et al., slip no. 2016-Ohio-1567 (Ohio 2016).	No

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 Oklahoma	Competitive State Fund	85A Okl. St. § 5 ⁶	85A Okl. St. § 36 ⁷	No precedent	No precedent	No
 Oregon	Competitive State Fund	Oregon Rev. Stat. § 656.018	Oregon Rev. Stat. §§ 656.029 and 656.556	Unclear if statutory employer is entitled to immunity regardless of actual payment of benefits. See <u>Martelli v. R.A. Chambers & Assoc.</u> , 310 Ore. 529 (Or. 1990).	Exclusivity not applicable to OCIP: <u>Schmidt v. Intel Corp.</u> , 112 P.3d 428 (Or. Ct. App. 2005).	Yes, for construction agreements. See O.R.S. § 30.145
 Pennsylvania	Competitive State Fund	77 Penn. Stat. § 481	77 Penn. Stat. § 52; 77 Penn. Stat. § 462	Statutory employer entitled to immunity regardless of actual payment of benefits. See <u>Peck v. Del. County Bd. of Prison Inspectors</u> , 572 Pa. 249 (Pa. 2002).	No precedent	No
 Rhode Island	Competitive State Fund	R.I. Gen. Laws § 28-29-20	R.I. Gen. Laws § 28-29-6.1	No precedent	No precedent	No
 South Carolina	Private	S.C. Code § 42-1-540	S.C. Code § 42-1-400 (owners); S.C. Code § 42-1-410 (contractors) S.C. Code § 42-1-420 (sub-subcontractors)	Statutory employer entitled to immunity regardless of actual payment of benefits. See <u>Johnson v. Jackson</u> , 401 S.C. 152 (S.C. Ct. App. 2012); <u>Freeman Mech. V. J.W. Bateson Co.</u> , 316 S.C. 95 (S.C. 1994).	No precedent	No




⁶ This statute became effective on February 1, 2014. For injuries or claims before February 1, 2014 see 85 Okl. St. § 302.

⁷ This statute became effective on February 1, 2014. For injuries or claims before February 1, 2014 see 85 Okl. St. § 314.

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 South Dakota	Private	S.D. Codified Laws § 62-3-2	S.D. Codified Laws § 62-3-10	Statutory employer is entitled to immunity regardless of actual payment of benefits. See <u>Metzger v. J. F. Brunken & Son, Inc.</u> , 84 S.D. 168, 169 (S.D. 1969) subsequently referenced in <u>Thompson v. Mehlhaff</u> , 2005 SD 69 (S.D. 2005).	No precedent	No
 Tennessee	Private	Tenn. Code § 50-6-108	Tenn. Code § 50-6-113	Statutory employers are entitled to immunity regardless of actual payment of benefits. See <u>Troup v. Fischer Steel Corp.</u> , 236 S.W.3d 143 (Tenn. 2007).	No precedent	No
 Texas	Competitive State Fund	Tex. Lab. Code § 408.001	Tex. Lab. Code § 406.123	Statutory employer who provides compensation is entitled to immunity. See <u>Brooks v. Goodyear Tire & Rubber Co.</u> , 2013 Tex. App. LEXIS 8288 (Tex. App. Houston 14th Dist. July 9, 2013).	Exclusivity applicable to OCIP: <u>HCBeck, Ltd. v. Rice</u> , 284 S.W.3d 349 (Tex. 2009); <u>Hunt Constr. Group, Inc. v. Konecny</u> , 290 S.W.3d 328 (Tex. App. 2008); <u>Entergy Gulf States Inc. v. Summers</u> , 282 S.W.3d 433 (Tex. 2009). Exclusivity applicable to CCIP: <u>Becon Constr. Co. v. Alonso</u> , No. 09-13-00295-CV, 2014 Tex. App. LEXIS 10765 (Tex. App. Sept. 25, 2014); <u>Etie v. Walsh & Albert Co.</u> , 135 S.W.3d 764 (Tex. App. 2004).	No

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 Utah	Competitive State Fund	Utah Code § 34A-2-105	Utah Code § 34A-2-103, subd. (7)(a); subd. (7)(c); subd. (7)(e); Utah Code § 34A-2-106, subsection (4).	Statutory employer entitled to immunity. See Utah Code § 34A-2-103(f)(ii).	Exclusivity applicable to CCIP: <u>Nichols v. Jacobsen Constr. Co.</u> , 2016 UT 19 (Utah 2016).	No
 Vermont	Private	21 V.S.A. § 622	21 V.S.A. § 601, subd. (3); <u>In re Chatham Woods Holdings, LLC</u> , 955 A.2d 1183 (Vt. 2008) (applying § 601(3) to owner-subcontractor relationship).	Statutory employer entitled to immunity regardless of actual payment of benefits. See <u>Edson v. State</u> , 2003 VT 32 (Vt. 2003).	No precedent	No
 Virginia	Private	Va. Code § 65.2-307	Va. Code § 65.2-302	Statutory employers are entitled to immunity regardless of payment. See <u>Slusher v. Paramount Warrior, Inc.</u> , 336 F. Supp. 1381 (W.D. Va. 1971) (notably, this is a federal court decision).	No precedent	No
 Washington	Monopolistic State Fund	Rev. Code Wash. § 51.32.010	Rev. Code Wash. § 51.12.070	No immunity for statutory employers. See <u>Greenleaf v. Puget Sound Bridge & Dredging Co.</u> , 58 Wn.2d 647 (Wash. 1961).	No precedent	No
 West Virginia	Private	W. Va. Code § 23-2-6	W. Va. Code § 23-2-1d	No precedent. But see W. Va. Code § 23-2-1d(a) (“Nothing contained in this section shall extend . . . to a primary contractor . . . the provisions of [W. Va. Code § 23-2-6]” and thus, statutory employer likely not entitled to immunity).	No precedent	No

*This survey is accurate as of 2016. Courts may change their views at any time. Workers' compensation legislation is constantly evolving; readers are advised to independently verify current versions of statutes.

Workers' Compensation Immunity State by State Survey:

Key Issues Addressing the Application of Exclusive Remedy Statutes

STATE	Type of WC Insurance ¹	WC Exclusive Remedy Statute ²	Principal/Statutory Employer Doctrine ³	Application of Exclusive Remedy Statute to Principal/Statutory Employers	Application of Exclusive Remedy Statute to Wrap-Ups ⁴	Subrogation Waiver Prohibited By Statute
 Wisconsin	Private	Wis. Stat. § 102.03	Wis. Stat. § 102.06	No immunity for statutory employers. <u>Kaltenbrun v. Gabe's Constr.</u> , 1990 Wisc. App. LEXIS 533 (Wis. Ct. App. 1990).	Exclusivity not applicable to OCIP: <u>Pride v. Liberty Mut. Ins. Co.</u> , No. 04-C-703, 2007 U.S. Dist. LEXIS 40833 (E.D. Wis. June 5, 2007).	No, but see Wis. Stat. § 102.29(1) and <u>Campion v. Montgomery Elevator Co.</u> , 172 Wis.2d 405 (Wis. Ct. App. 1992).
 Wyoming	Monopolistic State Fund	Wyo. Stat. § 27-14-104	Wyo. Stat. § 27-14-102, subd. (a)(viii)(G), § 27-14-206(e).	No precedent. But see Wyo. Stat. § 27-14-206(e) ("If a general contractor pays premiums on behalf of employees of a subcontractor, the contractor shall be afforded all privileges and immunities under this act as if he were the employer of the subcontractor's employees." Thus, statutory employer may be entitled to immunity if it provides compensation to the employee).	No precedent	Yes, state fund shall be entitled to reimbursement. See Wyo. Stat. § 27-14-105.

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