

# Availability of Attorney's Fees in Coverage Actions

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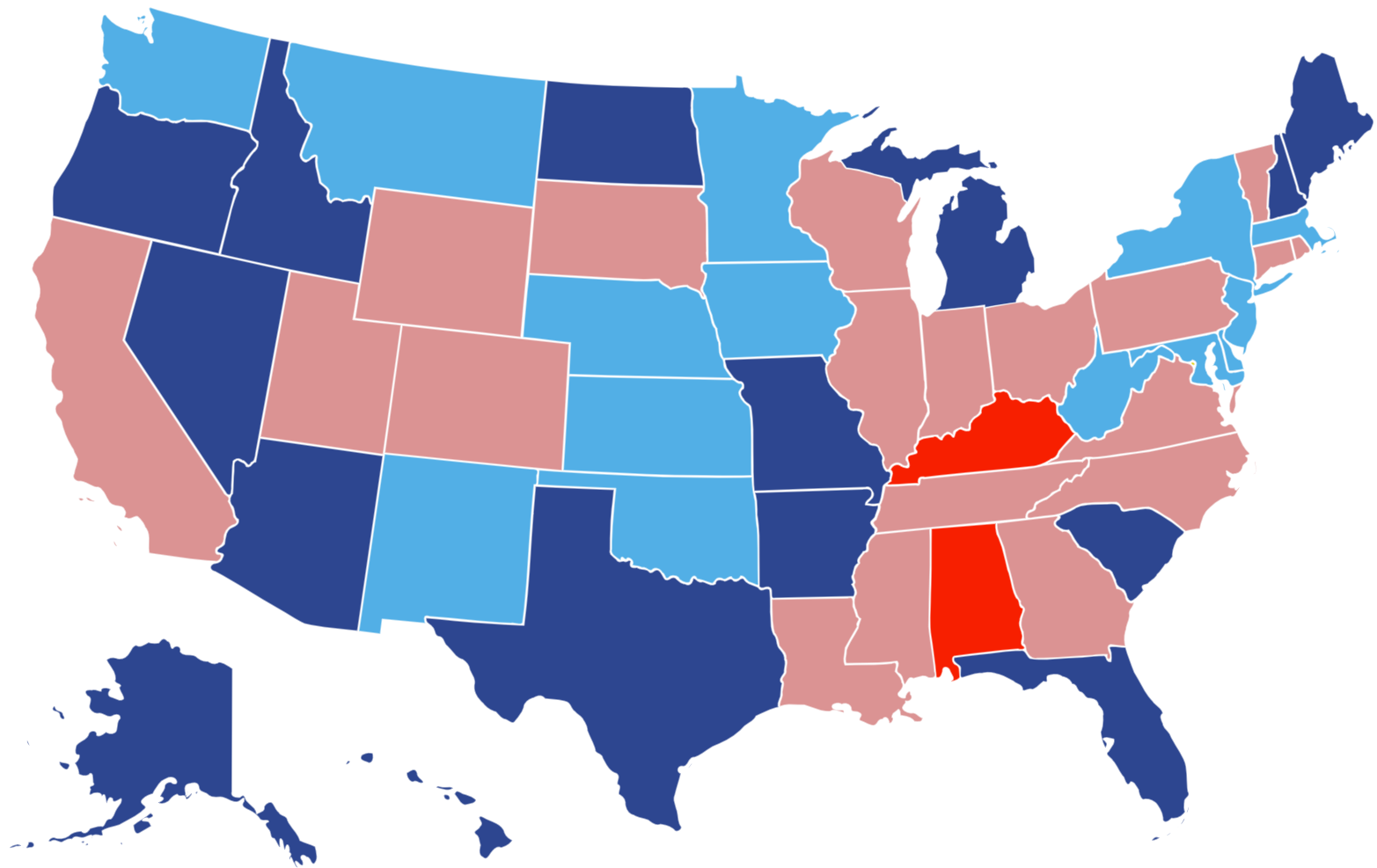
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THURSDAY, SEPTEMBER 19, 2024

In the United States, recovery of attorney's fees is generally subject to the "American Rule," which states that litigants in a lawsuit bear their own costs.<sup>1</sup> There are exceptions to this rule that usually arise in the context of statutory law or in accordance with a contractual agreement between the litigants.<sup>2</sup> Most states allow prevailing parties in insurance disputes also to recover their attorney's fees. But the scope and terms of recovery vary from state to state.


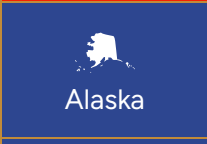







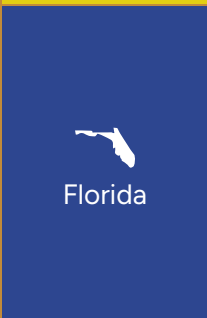

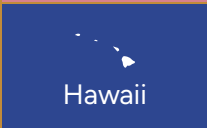

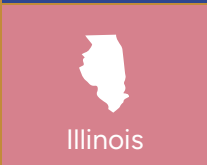
This survey identifies jurisdictions that allow and do not allow recovery of attorney's fees in insurance coverage litigation and identifies whether the right to recover fees arises by statute or by operation of common law.
















<sup>1</sup> See *Broadnax v. New Haven*, 851 A.2d 1113, 1141 (Conn. 2004) ("The general rule of law known as the American rule is that attorney's fees and ordinary expenses and burdens of litigation are not allowed to the successful party absent a contractual or statutory exception.") <sup>2</sup> *ACMAT Corp. v. Greater New York Mut. Ins. Co.*, 282 923 A.2d 697, 702 (Conn. 2007) ("[A] specific contractual terms may provide for the recovery of attorney's fees and costs . . . or a statute may confer such rights.")









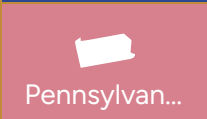




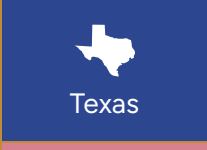



### Availability of Attorney's Fees in Coverage Actions







- Yes
- Yes, but may be limited in scope
- No, without any noted exceptions
- Unclear
- No, but exception made for insurer bad faith or other similar conduct

STATE	Are Attorney's Fees Recoverable?	Sources
 Alabama	No	<i>Alliance Ins. Co. v. Reynolds</i> , 504 So. 2d 1215 (Ala. Civ. App. 1987); <i>Clark v. Exchange Ins. Ass'n</i> , 161 So. 2d 817 (Ala. 1964); <i>Green v. Standard Fire Ins. Co.</i> , 477 So. 2d 333 (Ala. 1985); <i>Prime Ins. Syndicate, Inc. v. B.J. Handley Trucking, Inc.</i> , 363 F.3d 1089 (11th Cir. 2004) (Alabama law).
 Alaska	Yes	ALASKA R. CIV. P. 82 (granting a percentage of attorney's fees to the "prevailing party in any civil case" depending on the amount of the judgment, whether the case was contested, and whether the case went to trial, with the maximum amount being 20%); <i>Ryan v. Sea Air, Inc.</i> , 902 F. Supp. 1064 (D. Alaska 1995); <i>State v. Native of Nunapitchuk</i> , 156 P.3d 389 (Alaska 2008).
 Arizona	Yes	ARIZ. REV. STAT. ANN. § 12-341.01(A) (In any contested action arising out of a contract, express or implied, the court may award the successful party reasonable attorney fees.); <i>Nationwide Mut. Ins. Co. v. Granillo</i> , 573 P.2d 80 (Ariz. Ct. App. 1977); <i>Progressive Classic Ins. Co. v. Blaud</i> , 132 P.3d 298 (Ariz. Ct. App. 2006); <i>Lennar Corp. v. Auto-Owners Ins. Co.</i> , 252 P.3d 538 (Ariz. Ct. App. 2007).
 Arkansas	Yes	ARK. CODE ANN. § 23-79-209; <i>Med. Liab. Mut. Ins. Co. v. Alan Curtis Enters.</i> , 285 S.W.3d 233 (Ark. 2008); <i>Bituminous Cas. Corp. v. Zadeck Energy Group, Inc.</i> , 416 F. Supp. 2d 654 (W.D. Ark. 2005).
 California	No, unless the insurer engages in tortious conduct, without good cause, which necessitates its insured to retain an attorney to obtain benefits under the policy.	<i>Brandt v. Superior Court</i> , 693 P.2d 796 (Cal. 1985); <i>Essex Ins. Co. v. Five Star Dye House, Inc.</i> , 137 P.3d 192 (Cal. 2006); <i>Griffin Dewatering Corp. v. Northern Ins. Co.</i> , 97 Cal. Rptr. 3d 568 (Cal. Ct. App. 2009).
 Colorado	No, unless the insurer and insured expressly agreed otherwise, or if the insurer's actions were substantially frivolous, groundless, or vexatious.	COLO. REV. STAT. § 13-17-101 (2009) (general statute allowing attorney's fees); COLO. REV. STAT. § 10-3-1116 (allowing recovery of attorney's fees in first-party claims); see also <i>Home Loan Inv. Co. v. St. Paul Mercury Ins. Co.</i> , 78 F. Supp. 3d 1307 (D. Colo. 2014); <i>Allstate Ins. Co. v. Robins</i> , 597 P.2d 1052 (Colo. Ct. App. 1979); <i>Allstate Ins. Co. v. Huizar</i> , 52 P.3d 816 (Colo. 2002).
 Connecticut	No, unless the policyholder proves that the insurer engaged in bad faith conduct.	<i>ACMAT Corp. v. Greater New York Mut. Ins. Co.</i> , 923 A.2d 697 (Conn. 2007).
 Delaware	Yes, but only in cases involving property insurance.	DEL. CODE ANN. tit. 18, § 4102 (2021) (attorney's fees statute); <i>Galiotti v. Travelers Indem. Co.</i> , 333 A.2d 176 (Del. Super. Ct. 1975); <i>Steele v. Ariza</i> , No. 426 CIV.A.1974, 1977 WL 184939 (Del. Sup. Ct. 1977).
 District of Columbia	Unclear	<i>Compare Potomac Residence Club v. Western World Ins. Co.</i> , 711 A.2d 1228 (D.C. 1997), vacated, 711 A.2d 1250 (D.C. 1998) with <i>Harris v. Howard Univ., Inc.</i> , 48 F. Supp. 2d 43 (D.D.C. 1999).
 Florida	Yes, but not in cases involving residential or commercial property insurance policies.	Fla. Stat. §86.121 (2023) provides for recovery of attorney fees if insured prevails in a declaratory relief action after a "total coverage denial;" excludes commercial and residential property policies. Fla. Stat. §624.155 (2023) guides recovery of fees in actions for bad faith Fla. Stat. §624.1552 (2023) provides for recovery of attorney fees by both insured and insurer in actions involving insurance contracts as provided by the "Offer of Judgment" statute, §768.79 Fla. Stat. §627.756 (2023) provides for recovery of attorney fees where certain insureds successfully sue a surety insurer under payment or performance bonds Fla. Stat. §627.428, the former one way fee-shifting statute, has been repealed, but arguably still applies to policies in place on or before March 24, 2023 (note amendments in December 2022 and July 2021 had been gradually eliminating rights thereunder); See <i>State Farm Fire &amp; Cas. Co. v. Palma</i> , 629 So. 2d 830 (Fla. 1993) (the terms of section 627.428 are implicitly part of every insurance policy in Florida).
 Georgia	No, unless the insured prevails in a declaratory judgment action commenced because of the insured's alleged failure to cooperate, or the insurer acted in bad faith.	GA. Code Ann. § 33-4-6 (providing the insurer shall be liable for damages and the payment of attorney's fees in the instance they act in bad faith with the insured); GA. Code Ann. § 13-6-11 (allowing attorney's fees to the prevailing party when opposing party acted in bad faith, has been stubbornly litigious, or caused plaintiff unnecessary trouble and expense); <i>Ponse v. Atlanta Cas. Co.</i> , 605 S.E.2d 828 (Ga. Ct. App. 2004).
 Hawaii	Yes	HAW. REV. STAT. § 431:10-242; <i>Reliance Ins. Co. v. Doctors Co.</i> , 299 F. Supp. 2d 1131 (D. Haw. 2003).
 Idaho	Yes	IDAHO CODE ANN. § 41-1839; <i>Hansen v. State Farm Mut. Auto Ins. Co.</i> , 735 P.2d 974 (Idaho 1987); <i>Empire Fire &amp; Marine Ins. Co. v. North Pac. Ins. Co.</i> , 905 P.2d 1025 (Idaho 1995).
 Illinois	No, unless the insurer acted "vexatiously" or "unreasonably."	215 ILL. COMP. STATE. ANN. 5/155; <i>Am. Alliance Ins. Co. v. 1212 Restaurant Group, LLC</i> , 794 N.E.2d 892 (Ill. App. Ct. 2003); <i>Est. of Price v. Universal Cas. Co.</i> , 779 N.E.2d 384, 388 (Ill. App. Ct. 2002).

STATE	Are Attorney's Fees Recoverable?	Sources
 Indiana	No, unless the insurer acts in bad faith in handling the claim or in litigating the action.	IND. CODE ANN. § 34-52-1-1 (general recovery rule which allows for attorney's fees when the losing party litigated in bad faith or prosecuted frivolous, unreasonable or groundless claims); <i>Mikel v. Am. Ambassador Cas. Co.</i> , 644 N.E.2d 168 (Ind. Ct. App. 1994); <i>Patel v. United Fire &amp; Cas. Co.</i> , 80 F. Supp. 2d 948 (N.D. Ind. 2000).
 Iowa	Yes, if an insurer wrongfully refuses to defend its insured against third-party actions.	<i>New Hampshire Ins. Co. v. Christy</i> , 200 N.W.2d 834 (Iowa 1972); <i>Clark-Peterson Co. v. Independent Ins. Assocs., Ltd.</i> , 514 N.W.2d 912 (Iowa 1994).
 Kansas	Yes, when an insurer refuses to defend or indemnify the policyholder "without just cause or excuse."	KAN. STAT. ANN. § 40-256 (West 1972); <i>Johnson v. Westhoff Sand Co.</i> , 135 P.3d 1127 (Kan. 2006); <i>Wheeler v. Employer's Mut. Cas. Co.</i> , 505 P.2d 768 (Kan. 1973); <i>Spruill Motors v. Universal Underwriters Ins. Co.</i> , 512 P.2d 403, 409 (Kan. 1973).
 Kentucky	No	KY. REV. STAT. ANN. § 304.12-235; <i>Sphere Drake Ins. Co. v. Fourth St. Tobacco Warehouse</i> , No. 2001-CA-002312-MR, 2004 WL 178714 (Ky. Ct. App. Jan. 30, 2004); but see <i>Secura Ins. Co. v. Gray Const., Inc.</i> , 717 F. Supp. 2d 710, 722 (W.D. Ky. 2010).
 Louisiana	No, unless the insurer acts in bad faith.	<i>Shaffer v. Stewart Constr. Co.</i> , 865 So.2d 213 (La. Ct. App. 2004); but see <i>Maryland Cas. Co. v. Dixie Ins. Co.</i> , 622 So.2d 698, 703 (La. Ct. App. 1st Cir. 1993); <i>Real Asset Mgmt., Inc. v. Lloyd's of London</i> , 61 F.3d 1223 (5th Cir. 1995).
 Maine	Yes	ME. REV. STAT. ANN. tit. 24-A, § 2436-B; <i>Union Mut. Fire Ins. Co. v. Topsham</i> , 441 A.2d 1012 (Me. 1982); <i>Maine Mut. Fire Ins. Co. v. Gervais</i> , 745 A.2d 360 (Me. 1999).
 Maryland	Yes, but only in cases involving liability insurance policies.	<i>Gov't Employees Ins. Co. v. Taylor</i> , 310 A.2d 49 (Md. 1973); <i>Bankers &amp; Shippers Ins. Co. v. Electro Enters., Inc.</i> , 415 A.2d 278 (Md. 1980); but see <i>Collier v. MD Individual Practice Ass'n</i> , 607 A.2d 537 (Md. 1992).
 Massachus...	Yes, but recovery is limited to fees expended on declaratory actions brought against an insurer based on the duty to defend.	<i>Preferred Mut. Ins. Co. v. Gamache</i> , 686 N.E.2d 989 (Mass. 1997); <i>Wilkinson v. Citation Ins. Co.</i> , 856 N.E.2d 829 (Mass. 2006).
 Michigan	Yes	<i>Schiebout v. Citizens Ins. Co.</i> , 366 N.W.2d 45 (Mich. Ct. App. 1985); <i>Mich. Educ. Employees Mut. Ins. Co. v. Turow</i> , 617 N.W.2d 725 (Mich. Ct. App. 2000).
 Minnesota	Yes, but recovery is limited to fees expended on declaratory actions brought against an insurer based on the duty to defend.	<i>Am. Std. Ins. Co. v. Dang Van Le</i> , 551 N.W.2d 923 (Minn. 1996); <i>Jarvis &amp; Sons, Inc. v. Int'l Marine Underwriters</i> , 768 N.W.2d 365 (Minn. Ct. App. 2009).
 Mississippi	No, absent a showing of "gross or willful wrong" on the part of the insurer.	<i>Miller v. Allstate Ins. Co.</i> , 631 So.2d 789 (Miss. 1994); <i>Baker, Donelson, Bearman &amp; Caldwell, P.C. v. Muirhead</i> , 920 So.2d 440 (Miss. 2006).
 Missouri	Yes	MO. REV. STAT. § 527.100 (2010); <i>Am. Economy Ins. Co. v. Ledbetter</i> , 903 S.W.2d 272 (Mo. Ct. App. 1995).
 Montana	Yes, where the insurer's conduct forces the insured to file suit.	MONT. CODE § 27-8-313; <i>Mountain W. Farm Bureau Mut. Ins. Co. v. Brewer</i> , 69 P.3d 652 (Mont. 2003); <i>Jacobsen v. Allstate Ins. Co.</i> , 215 P.3d 649 (Mont. 2009); <i>Newman v. Scottsdale Ins. Co.</i> , 301 P.3d 348 (Mont. 2013); <i>Winter v. State Farm Mut. Auto. Ins. Co.</i> , 328 P.3d 665 (Mont. 2014); <i>Abbey/Land, LLC v. Glacier Constr. Partners, LLC</i> , 433 P.3d 1230 (Mont. 2019) (holding that if the equities support a grant of attorney fees under Mont. Code § 27-8-313, the court applies the "tangible parameters" test, determining that fees are necessary and proper when 1) the other party "possesses" what the party filing the declaratory judgment sought in the litigation, 2) the party filing the declaratory judgment action needed to seek a declaration showing that it is entitled to the relief sought, and 3) the declaratory relief sought was necessary in order to change the status quo).
 Nebraska	Yes, except for cases involving workers' compensation insurance policies.	NEB. REV. STAT. ANN. § 44-359; <i>Union Ins. Co. v. Bailey</i> , 450 N.W.2d 661 (Neb. 1990); <i>Fireman's Fund v. Structural Sys. Tech., Inc.</i> , No. 8:03CV341, 2006 WL 3486795 (D. Neb. Dec. 1, 2006).
 Nevada	Yes	NEV. REV. STAT. ANN. § 18.010 (allowing attorney's fees when prevailing party does not recover more than \$20,000, or when the claim of the opposing party was brought to harass the prevailing party); <i>Sandy Valley Assocs. v. Sky Ranch Estates Owners Ass'n</i> , 35 P.3d 964 (Nev. 2001); <i>Liu v. Christopher Homes, LLC</i> , 321 P.3d 875 (Nev. 2014); <i>Agwara v. DCP Inv. Holdings, LLC</i> , 476 P.3d 926 (Nev. App. 2020).

STATE	Are Attorney's Fees Recoverable?	Sources
 New Hampshire	Yes	N.H. REV. STAT. ANN. § 491:22-b; <i>Liberty Mut. Ins. Co. v. Home Ins. Indem. Co.</i> , 371 A.2d 1171 (N.H. 1977); <i>EnergyNorth Nat. Gas, Inc. v. Certain Underwriters at Lloyd's</i> , 934 A.2d 517 (N.H. 2007) (holding that if the insured has obtained rulings that require the excess insurer to indemnify it, the insured has prevailed within the meaning of N.H. REV. STAT. ANN. § 491:22-b and is entitled to recover reasonable attorney's fees).
 New Jersey	Yes, but only in cases involving liability and/or indemnity policies.	N.J. COURT R. 4:42-9(a)(6); <i>Allstate Ins. Co. v. Sabato</i> , 882 A.2d 972 (N.J. Super. Ct. 2005); <i>Passaic Valley Sewerage Comm'rs v. St. Paul Fire &amp; Marine Ins. Co.</i> , 21 A.3d 1151 (N.J. 2011); <i>Occhifinto v. Olivo Const. Co., LLC</i> , 114 A.3d 333 (N.J. 2015).
 New Mexico	Yes, but only in first-party claims.	NM ST § 39-2-1 (Provides attorney's fees in "any type of first-party coverage" where the insurer acted unreasonably in failing to pay the claim); <i>Lujan v. Gonzales</i> , 501 P.2d 673 (N.M. Ct. App. 1972); <i>Rodeo, Inc. v. Columbia Cas. Ins. Co.</i> , No. 28,384, 2009 WL 5657529 (N.M. Ct. App. Aug. 20, 2009); <i>Romero v. Progressive Nw. Ins. Co.</i> , No. 31,549, 2013 WL 4516010 (N.M. Ct. App. June 4, 2013).
 New York	Yes, where the policyholder is "cast in a defensive posture" by the legal steps its insurer takes to relieve itself of its policy obligations, and/or where the insurer "pertinaciously denied" the duty to defend.	<i>Mighty Midgets, Inc. v. Centennial Ins. Co.</i> , 389 N.E.2d 1080 (N.Y. 1979); <i>U.S. Underwriters Ins. Co. v. City Club Hotel, LLC</i> , 822 N.E.2d 777 (N.Y. 2004); see also <i>Employers Mut. Cas. Co. v. Key Pharmaceuticals</i> , 75 F.3d 815 (2d Cir. 1996); <i>Houston Cas. Co. v. Prosignt Specialty Ins. Co.</i> , 462 F. Supp. 3d 443 (S.D.N.Y. 2020).
 North Carolina	No, unless the insurer acted in bad faith.	<i>Collins &amp; Aikman Prods. Co. v. Hartford Accident &amp; Indem. Co.</i> , 481 S.E.2d 96 (N.C. Ct. App. 1997) (holding that attorney's fees incurred by the insured are not recoverable as damages where they have been incurred in the course of litigation to determine coverage and compel the insurer to perform its duties but recognizing that attorney's fees can be recovered in situations where an insurer acts in bad faith).
 North Dakota	Yes	N.D. CENT. CODE § 32-23-08 (general statute allowing for other "necessary and proper" relief in declaratory actions); <i>State Farm Fire &amp; Cas. Co. v. Sigman</i> , 508 N.W.2d 323 (N.D. 1993).
 Ohio	No, unless the insurer acts in bad faith, vexatiously, wantonly, obdurately, or for oppressive reasons.	OHIO REV. CODE ANN. § 2721.16 (general prohibition on awarding attorney's fees in declaratory actions); <i>Westfield Cos. v. O.K.L. Can Line</i> , 804 N.E.2d 45 (Ohio Ct. App. 2003), citing <i>Motorists Mut. Ins. Co. v. Trainor</i> , 294 N.E.2d 874 (Ohio 1973).
 Oklahoma	Yes, except for uninsured motorists' coverage	OKLA. STAT. ANN. tit. 36, § 3629; <i>Stauth v. Nat'l Union Fire Ins. Co.</i> , 236 F.3d 1260 (10th Cir. 2001) (Oklahoma law); <i>Spears v. Shelter Mut. Ins. Co.</i> , 73 P.3d 865 (Okla. 2003).
 Oregon	Yes	OR. REV. STAT. ANN. § 742.061; <i>McGraw v. Gwinner</i> , 578 P.2d 1250 (Or. 1978).
 Pennsylvania	No, unless the insurer acted in bad faith.	42 PA. CONS. STAT. ANN. § 8371; <i>Kelmo Enters., Inc. v. Commercial Union Ins. Co.</i> , 426 A.2d 680 (Pa. Super. Ct. 1981).
 Rhode Island	No, unless the insurer acted in bad faith.	9 R.I. GEN. LAWS ANN. § 9-1-33; <i>Ins. Co. of N. Am. v. Kayser-Roth Corp.</i> , 770 A.2d 403 (R.I. 2001).
 South Carolina	Yes	<i>Hegler v. Gulf Ins. Co.</i> , 243 S.E.2d 443 (S.C. 1978); <i>First Financial Ins. Co. v. Sea Island Sport Fishing Soc'y</i> , 490 S.E.2d 257 (S.C. 1997); <i>State Auto Prop. &amp; Cas. Ins. Co. v. Reynolds</i> , 592 S.E.2d 633 (S.C. 2004).
 South Dakota	No, unless the insurer's refusal to pay was "vexatious or without reasonable cause."	S.D. CODIFIED LAWS § 58-12-3 (2021); <i>Brooks v. Milbank Ins. Co.</i> , 605 N.W.2d 173 (S.D. 2000); <i>Sawyer v. Farm Bureau Mut. Ins. Co.</i> , 619 N.W.2d 644 (S.D. 2000).
 Tennessee	No, unless the insured complies with various statutory requirements and the insurer acts in bad faith.	TENN. CODE ANN. § 56-7-105 (2021); <i>Norris v. Nationwide Mut. Fire Ins. Co.</i> , 621 N.W.2d 335 (Tenn. Ct. App. 1986); <i>Farmers Mut. of Tenn. v. Athens Ins. Agency</i> , 145 S.W.3d 566 (Tenn. Ct. App. 2004).
 Texas	Yes	TEX. CIV. PRAC. & REM. CODE ANN. § 37.009 (2021); TEX. INS. CODE ANN. § 542.060 (2021); <i>Allstate Ins. Co. v. Irwin</i> , 2021 WL 2021446 (Tex. 2021); <i>Allstate Ins. Co. v. Hallman</i> , 159 S.W.3d 640 (Tex. 2005).
 Utah	No, unless the insurer acts in bad faith, fraudulently, or is stubbornly litigious.	<i>Farmers Ins. Exch. v. Call</i> , 712 P.2d 231 (Utah 1985); <i>Western Cas. and Sur. Co. v. Marchant</i> , 615 P.2d 423, 427 (Utah 1980).



STATE	Are Attorney's Fees Recoverable?	Sources
 Vermont	No, unless the insurer acts in bad faith, or "outrageous conduct" has been shown.	<i>Concord Gen. Mut. Ins. Co. v. Woods</i> , 824 A.2d 572 (Vt. 2003).
 Virginia	No, unless the insurer acts in bad faith, and the insured must first obtain a judgment against the insurer.	VA. CODE ANN. § 38.2-209 (2010); <i>CUNA Mut. Ins. Soc'y v. Norman</i> , 375 S.E.2d 724 (Va. 1989); see also <i>Tiger Fibers, LLC v. Aspen Specialty Ins. Co.</i> , 594 F. Supp.2d 630 (E.D. Va. 2009).
 Washington	Yes, but only when coverage is disputed rather than the value of the insured's claim.	<i>Olympic S.S. Co. v. Centennial Ins. Co.</i> , 811 P.2d 673 (Wash. 1991); <i>Dayton v. Farmers Ins. Group</i> , 876 P.2d 896 (Wash. 1994); <i>Farmers Ins. Co. v. Lautenbach</i> , 963 P.2d 965 (Wash. Ct. App. 1998); <i>Singh v. Zurich Am. Ins. Co.</i> , 428 P.3d 1237 (Wash. Ct. App. 2018).
 West Virginia	Yes, but recovery may be limited to cases involving the insurer's duty to defend.	<i>Aetna Cas. &amp; Sur. Co. v. Pitrolo</i> , 342 S.E.2d 156 (W. Va. 1986); <i>Hayseeds, Inc. v. State Farm Fire &amp; Cas.</i> , 352 S.E.2d 73 (W. Va. 1986); <i>Graham v. Nat'l. Union Fire Ins. Co. of Pittsburgh, PA</i> , 556 Fed. Appx. 193 (4th Cir. 2014).
 Wisconsin	No, unless the insurer acts in bad faith.	<i>Elliot v. Donahue</i> , 485 N.W.2d 403 (Wis. 1992); but see <i>Reid v. Benz</i> , 629 N.W.2d 262 (Wis. 2001); see also <i>DeChant v. Monarch Life Ins. Co.</i> , 547 N.W.2d 592 (Wis. 1996).
 Wyoming	No, unless the insurer refuses the insured's claim "without cause."	WYO. STAT. ANN. § 26-15-124; <i>State Sur. Co. v. Lamb Constr. Co.</i> , 625 P.2d 184 (Wyo. 1981); see also <i>Stewart Title Guar. Co. v. Tilden</i> , 181 P.3d 94 (Wyo. 2008); <i>Thorkildsen v. Bexlden</i> , 269 P.3d 421 (Wyo. 2012) (holding that in determining the reasonableness of the fees requested, a trial court must follow the federal lodestar test, which requires a determination of 1) whether the fee charged represents the product of reasonable hours times a reasonable rate, and 2) whether other factors of discretionary application should be considered to adjust the fee either upward or downward).

**Disclaimer:** This survey is current as of 10/2022. This material is made available for general informational purposes only. The field of insurance law is ever-evolving, and courts may change their views at any time. Readers are advised to verify the information contained herein independently. This material is not intended to, and does not constitute, legal advice, nor is it intended to constitute a solicitation for the formation of an attorney-client relationship.

For more information or questions on exhaustion strategies, please contact us at [coverage@sdvlaw.com](mailto:coverage@sdvlaw.com).