



Subrogation

Since the Pool's inception over 40 years ago, subrogation has emerged as one of the most powerful and effective tools to recoup losses incurred by at-fault third parties. Below is a quick primer on what subrogation is, and how it plays a pivotal role in safeguarding the financial health of the Pool and our Members.

What is subrogation?

Subrogation is the process whereby the Pool recoups losses for property and/or worker's compensation claims by pursuing the at-fault party individually or via their insurance carrier.

For example, if a Member-owned vehicle is damaged during an accident, and it is determined that the other driver is at fault, the at-fault driver or their insurer may be liable for the expenses arising from the accident. This principle of subrogation can be applied to property and workers' compensation claims.

Why is subrogation important?

The Pool's core value of "Members First, Staff Always" undergirds our goal of dependable coverage for Texas municipalities and other local governments. By recouping damages from at-fault third parties, the Pool is better equipped to maintain steady rates for Members. As a practical matter, subrogation doesn't just bolster the financial integrity of our taxpayer-funded Pool - it also ensures the longevity and continuity of Member benefits, year after year.

How does the Pool manage a subrogation claim?

After a claim has been paid, the Pool will evaluate claims for subrogation potential. If Pool staff determines that an at-fault third party is responsible for the damages, the claim is immediately assigned to one of the Subrogation Specialists on the Pre-Litigation Team. Your Fund Contact is then notified and provided with the assigned Subrogation Specialist's contact information.

During the pre-litigation phase, our Subrogation Specialists are tasked with information gathering, issuing demand letters, and negotiating with at-fault third parties and/or their insurance carriers to recoup the Pool's lien.

If attempts to recover damages during the pre-litigation phase are unsuccessful, the claim is reassigned to the Subrogation Litigation Department. This team initiates lawsuits against at-fault third parties before the two-year statute of limitations expires. The Subrogation Litigation team is staffed with dedicated attorneys to oversee and strategically manage the life cycle of each case.

If subrogation efforts are successful, the Pool will return the full or a pro-rata share of the Member's deductible.



Is subrogation always successful?

Historically, the Pool has been highly successful in recouping expense on behalf of our Members. The pre-litigation recovery rate is at an estimated 90 percent. Despite our best attempts, however, subrogation does not always result in a full recovery. For example, the at-fault party sometimes did not carry any insurance, had inadequate insurance, or does not have assets to pursue. The strongest subrogation claims usually have a clear demonstration of negligence on the part of the at-fault third party, as well as adequate supporting documentation to prove up damages.

Do Members have to pay for the cost of litigating subrogation claims?

No. The Pool has a full-time, dedicated staff of pre-litigation and litigation professionals to handle most subrogation claims without additional costs to Members.

How can a Member help support the Pool in recouping my deductible?

The difference between a successful subrogation case and an unsuccessful one oftentimes hinges on the following:

- **Accurate records.** If you have photographs of the accident scene, accident reports, employee statements, witness statements, and/or crash reports, be sure to send these to your adjuster when you report your claim.
- **Preservation of Evidence.** If emergency repairs are necessary to prevent further loss, retain all pieces of broken equipment or damaged parts in a secure location until the Pool has had an opportunity to inspect and provide guidance.
- **Timeliness.** The Pool's subrogation team requires sufficient time to investigate and prosecute a subrogation claim thoroughly. Most civil suits have a two-year statute of limitations within which suit must be filed. The sooner you report a claim and provide accurate supporting documentation, the better our chances of recouping a loss.
- **Open communications.** From time to time, the Pool's subrogation specialists may reach out to you for more information on a claim. Examples include clarifying timelines, requesting additional supporting documentation, or solidifying witness testimony. An open line of communication ensures that the Pool is working in lockstep with its members to ensure the best outcome.

Who should I call if I have questions about subrogation?

Please contact the Subrogation Division Supervisor for more information.