

LEGISLATURE OF NEBRASKA  
ONE HUNDRED NINTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 313**

Introduced by Ibach, 44.

Read first time January 16, 2025

Committee:

- 1 A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to
- 2 amend sections 48-118 and 48-118.04, Reissue Revised Statutes of
- 3 Nebraska; to change provisions relating to subrogation regarding
- 4 third-party claims under the act; to provide for the distribution of
- 5 proceeds from the settlement of third-party claims in certain
- 6 circumstances; to harmonize provisions; and to repeal the original
- 7 sections.
- 8 Be it enacted by the people of the State of Nebraska,

1           **Section 1.** Section 48-118, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           48-118 When a third person is liable to the employee or to the  
4 dependents for the injury or death of the employee, the employer or  
5 workers' compensation insurer shall be subrogated to the right of the  
6 employee or to the dependents against such third person. The recovery by  
7 such employer or workers' compensation insurer shall not be limited to  
8 the amount payable as compensation to such employee or dependents, but  
9 such employer or workers' compensation insurer may recover any amount  
10 which such employee or his or her dependents should have been entitled to  
11 recover.

12           Any recovery by the employer or workers' compensation insurer  
13 against such third person, in excess of the compensation paid by the  
14 employer or workers' compensation insurer after deducting the expenses of  
15 making such recovery, shall be paid forthwith to the employee or to the  
16 dependents and shall be treated as an advance payment by the employer or  
17 workers' compensation insurer on account of any future installments of  
18 compensation.

19           Nothing in the Nebraska Workers' Compensation Act shall be construed  
20 to deny the right of an injured employee or of his or her personal  
21 representative to bring suit against such third person in his or her own  
22 name or in the name of the personal representative based upon such  
23 liability, but in such event an employer or workers' compensation insurer  
24 having paid or paying compensation to such employee or his or her  
25 dependents shall be made a party to the suit for the purpose of  
26 reimbursement, under the right of subrogation, of any compensation paid.

27           **Sec. 2.** Section 48-118.04, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29           48-118.04 (1) A settlement of a third-party claim under the Nebraska  
30 Workers' Compensation Act is void unless:

31           (a) Such settlement is agreed upon in writing by the employee or his

1 or her personal representative and the workers' compensation insurer of  
2 the employer, if there is one, and if there is no insurer, then by the  
3 employer; or

4 (b) In the absence of such agreement, the court before which the  
5 action is pending determines that the settlement offer is fair and  
6 reasonable considering liability, damages, and the ability of the third  
7 person and his or her liability insurance carrier to satisfy any  
8 judgment.

9 (2) If the employee or his or her personal representative or the  
10 employer or his or her workers' compensation insurer do not agree in  
11 writing upon distribution of the proceeds of any judgment or settlement,  
12 the court, upon application, shall order the a fair and equitable  
13 distribution of the proceeds as follows: of any judgment or settlement.

14 (a) After deducting the reasonable expenses of making the recovery,  
15 one-third of the remainder shall be paid to the employee or his or her  
16 personal representative;

17 (b) Out of the balance remaining after the deduction and payment  
18 specified in subdivision (a) of this subsection, the employer or workers'  
19 compensation insurer shall be paid for all compensation payments that (i)  
20 have been made by the employer or workers' compensation insurer or (ii)  
21 the employer or workers' compensation insurer may be obligated to make in  
22 the future; and

23 (c) Any balance remaining after the distributions described in  
24 subdivisions (a) and (b) of this subsection have been made shall be paid  
25 to the employee or his or her personal representative.

26 **Sec. 3.** Original sections 48-118 and 48-118.04, Reissue Revised  
27 Statutes of Nebraska, are repealed.