

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 125

S.P. 42

In Senate, January 14, 1969
Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Mr. Tanous of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Relating to Workmen's Compensation Third-Party Actions.

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 39, § 68, repealed and replaced. Section 68 of Title 39 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 68. Liability of third persons; election of employee; subrogation

When an injury or death for which compensation or medical benefits are payable under this Act shall have been sustained under circumstances creating in some person other than the employer a legal liability to pay damages in respect thereto, the injured employee may, at his option, either claim such compensation and benefits or obtain damages from or proceed at law against such other person to recover damages.

If the injured employee elects to claim compensation and benefits under this Act, any employer having paid such compensation or benefits or having become liable therefor under any decree or approved agreement shall have a lien for the value of compensation paid on any damages subsequently recovered against the third person liable for the injury. If the employee or compensation beneficiary fails to pursue his remedy against the third party within 30 days after written demand by an employer or compensation insurer in interest, the employer or compensation insurer shall be subrogated to the rights of the injured employee and shall be entitled to enforce liability in their own name or in the name of the injured party; the accounting for the proceeds to be made on the basis provided.

If the employee or compensation beneficiary recovers damages from a third person, he shall repay to the employer or compensation insurer, out

of the recovery against the third person, the benefits paid to him by the employer or compensation insurer under this Act, less a proportionate share of the expenses and cost of action or collection, including reasonable attorney's fees.

If the employer or compensation insurer shall recover from a third person damages in excess of the compensation and benefits so paid or for which he has thus become liable, then any such excess shall be paid to the injured employee, less a proportionate share of the expenses and cost of actions or collection, including reasonable attorney's fees. Settlement of such subrogation claims and the distribution of the proceeds therefrom must have the approval of the court wherein the subrogation action is pending or to which it is returnable; or if not in suit, of a single commissioner. When the court in which such subrogation action is pending or to which it is returnable is in vacation, the judge of the court, or, if the action is pending in or returnable to the Superior Court, any Justice of the Superior Court, shall have the power to approve the settlement of such action and the distribution of the proceeds therefrom. The beneficiary shall be entitled to reasonable notice and the opportunity to be present in person or by counsel at the approval proceeding.