

House Engrossed Senate Bill

workers' compensation; fraud investigations; adjudications

State of Arizona  
Senate  
Fifty-sixth Legislature  
First Regular Session  
2023

## CHAPTER 191

# SENATE BILL 1164

AN ACT

AMENDING TITLE 23, CHAPTER 6, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-934; AMENDING SECTION 1, AS ADDED BY HOUSE BILL 2431, FIFTY-SIXTH LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; RELATING TO WORKERS' COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 6, article 2, Arizona Revised  
3 Statutes, is amended by adding section 23-934, to read:

4 23-934. Fraud; investigations; rules

5 A. THE COMMISSION SHALL ESTABLISH A FRAUD UNIT FOR THE PURPOSE OF  
6 INVESTIGATING FRAUDULENT ACTIVITIES, STATEMENTS OR REPRESENTATIONS MADE IN  
7 CONNECTION WITH WORKERS' COMPENSATION CLAIMS. THE FRAUD UNIT MAY  
8 INVESTIGATE ALLEGATIONS OF FRAUD EITHER ON RECEIVING A COMPLAINT OR ON THE  
9 FRAUD UNIT'S OWN MOTION. ANY ALLEGATION INVOLVING UNFAIR CLAIM PROCESSING  
10 PRACTICES OR BAD FAITH BY AN EMPLOYER, SELF-INSURED EMPLOYER, INSURANCE  
11 CARRIER OR CLAIMS PROCESSING REPRESENTATIVE SHALL BE ADDRESSED PURSUANT TO  
12 SECTION 23-930.

13 B. THE COMMISSION SHALL ADOPT RULES TO ESTABLISH A PROCESS FOR  
14 RECEIVING FRAUD COMPLAINTS AND CONDUCTING FRAUD INVESTIGATIONS PURSUANT TO  
15 THIS SECTION. THE RULES SHALL ESTABLISH:

16 1. A PROCESS BY WHICH THE FRAUD UNIT VERIFIES CLAIMANT ANNUAL  
17 EARNINGS REPORTED PURSUANT TO SECTION 23-1047 WITH THE DEPARTMENT OF  
18 ECONOMIC SECURITY UNEMPLOYMENT INSURANCE INFORMATION FOR THE PURPOSE OF  
19 INVESTIGATING WORKERS' COMPENSATION FRAUD.

20 2. A PROCESS OF TIMELINESS FOR RECEIVING AND PROCESSING FRAUD  
21 COMPLAINTS.

22 3. CRITERIA FOR DETERMINING WHICH ALLEGATIONS OF FRAUD WARRANT  
23 INVESTIGATION.

24 4. DUTIES AND AUTHORITIES OF FRAUD INVESTIGATORS, INCLUDING ISSUING  
25 AND SERVING SUBPOENAS FOR WITNESSES AND DOCUMENTARY EVIDENCE, TAKING  
26 DEPOSITIONS, ADMINISTERING OATHS AND EXAMINING WITNESSES UNDER OATH  
27 RELEVANT TO THE FRAUD INVESTIGATION.

28 C. IF, ON INVESTIGATION, THE FRAUD UNIT IS SATISFIED THAT  
29 FRAUDULENT ACTIVITIES, STATEMENTS OR REPRESENTATIONS WERE MADE IN  
30 CONNECTION WITH A WORKERS' COMPENSATION BENEFITS OR PAYMENTS CLAIM FOR THE  
31 PURPOSE OF OBTAINING COMPENSATION BENEFITS OR PAYMENTS, THE FRAUD UNIT MAY  
32 REPORT VIOLATIONS OF LAW TO THE CLAIMANT OR CLAIMANT'S REPRESENTATIVE, TO  
33 THE REPORTING EMPLOYER, SELF-INSURED EMPLOYER OR INSURANCE CARRIER, TO THE  
34 APPROPRIATE LICENSING AGENCY AS DEFINED IN SECTION 20-466.04, AND TO THE  
35 APPROPRIATE COUNTY ATTORNEY OR THE ATTORNEY GENERAL FOR PROSECUTION.

36 D. THIS SECTION DOES NOT LIMIT ANY OF THE FOLLOWING:

37 1. THE AUTHORITY OF THE COMMISSION, THE DEPARTMENT OF INSURANCE AND  
38 FINANCIAL INSTITUTIONS OR ANY OTHER ENTITY TO PURSUE ANY REMEDY PURSUANT  
39 TO SECTION 23-970 OR 23-1028.

40 2. THE OBLIGATION OF AN INSURER TO REPORT A FRAUD CLAIM PURSUANT TO  
41 SECTION 20-466, SUBSECTION G.

1           Sec. 2. Section 1, as added by House Bill 2431, fifty-sixth  
2 legislature, first regular session, as transmitted to the governor, is  
3 amended to read:

4           Section 1. Commercial workers' compensation; firefighters;  
5                                   rate deviations; experience modifications;  
6                                   Covid-19; intent; delayed repeal

7           A. **NOTWITHSTANDING SECTION 20-344, ARIZONA REVISED STATUTES,**  
8 commercial workers' compensation insurers that cover firefighters and fire  
9 investigators may charge and collect additional premiums from fire  
10 districts to offset and recover Covid-19-related claims costs paid by the  
11 insurer before July 1, 2023 to the extent the fire district is able to  
12 obtain reimbursement for such additional premium charges from the American  
13 Rescue Plan Act of 2021. This additional premium is in addition to the  
14 rate deviations prescribed in section 20-359, Arizona Revised Statutes,  
15 and any experience modifications prescribed in section 23-963.01, Arizona  
16 Revised Statutes. A commercial workers' compensation insurer may charge a  
17 premium only if the insurance policy includes a provision that would allow  
18 the insurer to charge an additional premium.

19           B. The **TOTAL AGGREGATE** maximum amount of the additional premium  
20 each commercial workers' compensation insurer may charge and collect **FROM**  
21 **ALL FIRE DISTRICT INSUREDS** pursuant to subsection A of this section is  
22 \$800,000. Notwithstanding subsection A of this section, a commercial  
23 workers' compensation insurer may not include any Covid-19-related claims  
24 costs for which the insurer charges and collects additional premiums  
25 pursuant to subsection A of this section in any experience modification  
26 charged to the fire district.

27           C. The legislature intends that this section not delay payment of  
28 fire districts' eligible COVID-19-related expenses by the industrial  
29 commission of Arizona using American Rescue Plan Act monies allocated as  
30 part of the fiscal year 2022-2023 budget.

31           D. This section is repealed from and after December 31, 2024.

32           Sec. 3. Conditional enactment

33           Section 2 of this act does not become effective unless House Bill  
34 2431, fifty-sixth legislature, first regular session, relating to  
35 commercial workers' compensation for firefighters, becomes law.

APPROVED BY THE GOVERNOR JUNE 20, 2023.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 20, 2023.