

REFERENCE TITLE: fraud unit; investigations; annual report

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2205

Introduced by
Representative Livingston

AN ACT

AMENDING SECTION 20-466, ARIZONA REVISED STATUTES; RELATING TO INSURANCE FRAUD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-466, Arizona Revised Statutes, is amended to
3 read:

4 20-466. Fraud unit; investigators; peace officer status;
5 powers; information sharing; assessment; annual
6 report

7 A. The fraud unit is established in the department of insurance and
8 financial institutions. The director of the department of insurance and
9 financial institutions shall appoint an individual to operate the fraud
10 unit in conjunction with operating the automobile theft authority
11 established by section 41-3451.

12 B. The fraud unit shall work in conjunction with the department of
13 public safety.

14 C. The director may investigate any act or practice of fraud
15 prohibited by section 20-466.01 and any other act or practice of fraud
16 against an insurer or entity licensed under this title. The director
17 shall administer the fraud unit.

18 D. The director may employ investigators for the fraud unit. A
19 fraud unit investigator has and shall exercise the law enforcement powers
20 of a peace officer of this state but only while acting in the course and
21 scope of employment for the department of insurance and financial
22 institutions. The director shall adopt guidelines for the conduct of
23 investigations that are substantially similar to the investigative policy
24 and procedural guidelines of the department of public safety for peace
25 officers. Fraud unit investigators shall not preempt the authority and
26 jurisdiction of other law enforcement agencies of this state or its
27 political subdivisions. Fraud unit investigators:

28 1. Shall have at least the qualifications prescribed by the Arizona
29 peace officer standards and training board pursuant to section 41-1822.

30 2. Are not eligible to participate in the public safety personnel
31 retirement system established by title 38, chapter 5, article 4 due solely
32 to employment as fraud unit investigators.

33 E. The director may request the submission of papers, documents,
34 reports or other evidence relating to an investigation under this section.
35 The director may issue subpoenas and take other actions pursuant to
36 section 20-160. The materials are privileged and confidential until the
37 director completes the investigation. Any documents, materials or other
38 information that is provided to the director pursuant to this section is
39 not subject to discovery or subpoena until opened for public inspection by
40 the director or, after notice and a hearing, a court determines that the
41 director would not be unduly burdened by compliance with the subpoena.
42 The director shall keep the identity of an informant confidential,
43 including any information that might identify the informant, unless the
44 request for information is made by a law enforcement agency, the attorney
45 general or a county attorney for purposes of a criminal investigation or

1 prosecution. The director may use the documents, materials or other
2 information in the furtherance of any regulatory or legal action brought
3 as a part of the director's official duties.

4 F. If the documents, materials or other information the director
5 seeks to obtain by request is located outside this state, the person
6 requested to provide the documents, materials or other information shall
7 arrange for the fraud unit or a representative, including an official of
8 the state in which the documents, materials or other information is
9 located, to examine the documents, materials or other information where it
10 is located. The director may respond to similar requests from other
11 states.

12 G. An insurer that believes a fraudulent claim has been or is being
13 made shall send to the director, on a form prescribed by the director,
14 information relative to the claim including the identity of parties
15 claiming loss or damage as a result of an accident and any other
16 information the fraud unit may require. The director shall review the
17 report and determine if further investigation is necessary. If the
18 director determines that further investigation is necessary, the director
19 may conduct an independent investigation to determine if fraud, deceit or
20 intentional misrepresentation in the submission of the claim exists. If
21 the director is satisfied that fraud, deceit or intentional
22 misrepresentation of any kind has been committed in the submission of a
23 claim, the director may report the violations of the law to the reporting
24 insurer, to the appropriate licensing agency as defined in section
25 20-466.04 and to the appropriate county attorney or the attorney general
26 for prosecution.

27 H. The director may:

28 1. Share nonpublic documents, materials or other information with
29 other state, federal and international regulatory agencies, with the
30 national association of insurance commissioners and its affiliates and
31 subsidiaries and with state, federal and international law enforcement
32 authorities if the recipient agrees and warrants that it has the authority
33 to maintain the confidentiality and privileged status of the documents,
34 materials or other information.

35 2. Receive documents, materials and other information from the
36 national association of insurance commissioners and its affiliates and
37 subsidiaries and from regulatory and law enforcement officials of other
38 jurisdictions and shall maintain as confidential or privileged any
39 document, material or other information received with notice or the
40 understanding that it is confidential or privileged under the laws of the
41 jurisdiction that is the source of the document, material or other
42 information.

43 3. Enter into agreements that govern the sharing and use of
44 documents, materials and other information and that are consistent with
45 this section.

1 I. A disclosure to or by the director pursuant to this section or
2 as a result of sharing information pursuant to subsection H of this
3 section is not a waiver of any applicable privilege or claim of
4 confidentiality in the documents, materials or other information disclosed
5 or shared.

6 J. The director shall annually assess each insurer as defined in
7 section 20-441, subsection B authorized to transact business in this state
8 up to \$1,050 for the administration and operation of the fraud unit and
9 the prosecution of fraud pursuant to this section. Monies collected shall
10 be deposited, pursuant to sections 35-146 and 35-147, in the state general
11 fund for appropriation to the fraud unit. All monies appropriated to the
12 department for the fraud unit shall be included as a separate line item in
13 the general appropriations act. The department shall use all appropriated
14 monies exclusively to operate the fraud unit. **MONIES THAT ARE
15 APPROPRIATED TO THE FRAUD UNIT ARE EXEMPT FROM THE PROVISIONS OF SECTION
16 35-190 RELATING TO LAPSING OF APPROPRIATIONS.**

17 K. A person, or an officer, employee or agent of the person acting
18 within the scope of employment or agency of that officer, employee or
19 agent, who in good faith files a report or provides other information to
20 the fraud unit pursuant to this section is not subject to civil or
21 criminal liability for reporting that information to the fraud unit.

22 L. **ON OR BEFORE MARCH 1 OF EACH YEAR, THE FRAUD UNIT SHALL PREPARE
23 AND SUBMIT A REPORT TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF
24 REPRESENTATIVES AND THE PRESIDENT OF THE SENATE AND SHALL PROVIDE A COPY
25 OF THIS REPORT TO THE SECRETARY OF STATE. THE REPORT SHALL PROVIDE ALL OF
26 THE FOLLOWING WITH RESPECT TO THE PRECEDING CALENDAR YEAR:**

27 1. **THE NUMBER OF REFERRALS OF POTENTIAL FRAUD RECEIVED FROM THE
28 FRAUD UNIT.**

29 2. **THE NUMBER OF CIVIL AND CRIMINAL CASES FILED AGAINST SUSPECTED
30 PERPETRATORS OF FRAUD.**

31 3. **A SUMMARY OF CRIMINAL PROSECUTIONS RELATED TO FRAUD.**

32 4. **THE TOTAL AMOUNT OF MONIES RECOVERED FOR VICTIMS OF FRAUD.**