

Senate Engrossed  
commerce; 2024-2025.

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

# SENATE BILL 1738

AN ACT

AMENDING SECTIONS 6-135, 18-441 AND 20-466, ARIZONA REVISED STATUTES;  
AMENDING TITLE 20, CHAPTER 2, ARTICLE 6, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 20-466.05; REPEALING LAWS 2023, CHAPTER 136, SECTION 2;  
AMENDING LAWS 2023, CHAPTER 136, SECTION 4; RELATING TO COMMERCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 6-135, Arizona Revised Statutes, is amended to  
3 read:

4 6-135. Department revolving fund; use of fund

5 A. ~~There is established a~~ THE department revolving fund IS  
6 ESTABLISHED to be administered by the deputy director under the conditions  
7 and for the purposes provided by this section. Monies in the fund are  
8 exempt from the provisions of section 35-190, ~~relating to lapsing of~~  
9 appropriations.

10 B. Any investigative costs, attorney fees or civil penalties  
11 recovered for the state by the attorney general or the deputy director as  
12 a result of actions brought pursuant to this title, whether by final  
13 judgment, settlement or otherwise, shall be deposited in the department  
14 revolving fund. If the unencumbered portion of the fund exceeds ~~\$200,000~~  
15 \$700,000 at the end of the fiscal year, all unencumbered monies in excess  
16 of ~~\$200,000~~ \$700,000 shall be deposited in the department receivership  
17 revolving fund, ~~pursuant to section 6-135.01.~~

18 C. The monies in the fund shall be used by the deputy director and  
19 the attorney general for investigative proceedings or for purposes of  
20 instituting and prosecuting civil actions pursuant to this title.

21 D. On or before the fifteenth day of February, May, August and  
22 November ~~of~~ each year, the deputy director shall file with the governor,  
23 with copies to the director of the department of administration, the  
24 president of the senate and the speaker of the house of representatives, a  
25 full and complete account of the receipts and disbursements from the fund  
26 in the previous calendar quarter.

27 Sec. 2. Section 18-441, Arizona Revised Statutes, is amended to  
28 read:

29 18-441. Data processing acquisition fund

30 A. A data processing acquisition fund is established to improve  
31 data processing in the office of secretary of state consisting of the fees  
32 collected pursuant to subsection B of this section. The secretary of  
33 state shall administer the fund. Monies in the fund are continuously  
34 appropriated to the office of secretary of state.

35 B. The secretary of state may assess a special recording fee of no  
36 more than six dollars for each filing under section 41-126, subsection A,  
37 paragraph 6, subdivisions (a) through (d). These fees are in addition to  
38 the fees collected under section 41-126, subsection A, paragraphs 6  
39 through 9. The secretary of state shall deposit, pursuant to sections  
40 35-146 and 35-147, all monies collected under these provisions in the data  
41 processing acquisition fund.

42 C. Monies in the data processing acquisition fund are exempt from  
43 the provisions of section 35-190 relating to lapsing of  
44 appropriations, ~~except that all monies in the fund remaining unencumbered~~

1 ~~and unexpended that exceed two hundred fifty thousand dollars revert to~~  
2 ~~the state general fund at the end of each calendar year.~~

3 Sec. 3. Section 20-466, Arizona Revised Statutes, is amended to  
4 read:

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

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~~ IN THE FRAUD UNIT ASSESSMENT  
15 FUND ESTABLISHED BY SECTION 20-466.05.

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

21 Sec. 4. Title 20, chapter 2, article 6, Arizona Revised Statutes,  
22 is amended by adding section 20-466.05, to read:

23 20-466.05. Fraud unit assessment fund

24 THE FRAUD UNIT ASSESSMENT FUND IS ESTABLISHED CONSISTING OF MONIES  
25 DEPOSITED PURSUANT TO SECTION 20-466, SUBSECTION J. MONIES IN THE FUND  
26 ARE CONTINUOUSLY APPROPRIATED. THE DEPARTMENT SHALL ADMINISTER THE FUND  
27 FOR ADMINISTERING AND OPERATING THE FRAUD UNIT ESTABLISHED BY SECTION  
28 20-466.

29 Sec. 5. Repeal

30 Laws 2023, chapter 136, section 2 is repealed.

31 Sec. 6. Laws 2023, chapter 136, section 4 is amended to read:

32 Sec. 4. Microbusiness loan program; fund; eligible entities;  
33 report; delayed repeal; transfer of monies;  
34 definitions

35 A. The microbusiness loan fund is established consisting of  
36 legislative appropriations. The office of economic opportunity shall  
37 administer the fund. Monies in the fund are continuously appropriated and  
38 are exempt from the provisions of section 35-190, Arizona Revised  
39 Statutes, relating to lapsing of appropriations. ~~in fiscal year~~  
40 ~~2023-2024~~, The office of economic opportunity shall use the monies in the  
41 fund for the microbusiness loan program.

42 B. The office of economic opportunity shall establish the  
43 microbusiness loan program to provide funding to eligible entities that  
44 provide loans to microbusinesses in this state.

1 C. The office of economic opportunity shall publicly list and  
2 solicit program applications for the participation and funding of eligible  
3 entities.

4 D. ~~In fiscal year 2023-2024~~ To receive funding from the program, an  
5 eligible entity must satisfy the following criteria:

6 1. Have expertise in microbusiness loan applications and evaluating  
7 microbusiness creditworthiness.

8 2. Establish an administrative system to monitor the microbusiness  
9 loans provided pursuant to this section.

10 3. Evaluate whether a proposed microbusiness loan will generate  
11 economic development and jobs within this state.

12 4. Refer all microbusiness loan recipients to a local organization  
13 or nonprofit organization that provides professional financial education.

14 E. A microbusiness loan provided by an eligible entity pursuant to  
15 this section may be used for the following:

16 1. Operation of the microbusiness, including creation and retention  
17 of jobs.

18 2. Working capital.

19 3. Acquisition or improvement of real property.

20 4. Acquisition of machinery and equipment.

21 5. Refinancing of debt obligations.

22 F. The office of economic opportunity shall market and advertise  
23 the program to microbusinesses that are unable to access traditional  
24 funding sources and offer information on other similar programs. The  
25 office of economic opportunity may use up to one percent of the monies  
26 deposited in the fund for the purposes of this subsection.

27 G. For each loan disbursed by an eligible entity using monies from  
28 the program, the following requirements apply:

29 1. The principal amount of an individual loan may not exceed  
30 \$50,000.

31 2. Program monies may not be used for more than twenty-five percent  
32 of the principal amount of the loan, but the office of economic  
33 opportunity may set a higher cap by rule.

34 3. Any principal and interest amounts repaid on program monies  
35 shall be used only for additional microbusiness loans pursuant to this  
36 section.

37 H. An eligible entity that participates in the program shall  
38 certify with the office of economic opportunity that a loan to a  
39 microbusiness complies with this section.

40 I. An eligible entity that participates in the program may charge  
41 application, commitment and loan guarantee fees as established by the  
42 eligible entity's management. Fees charged by eligible entities pursuant  
43 to this subsection may not exceed the following:

1           1. \$500 for loans with a principal amount less than \$25,000.

2           2. Two percent of the total loan principal for loans with a  
3 principal amount of \$25,000 or more.

4           J. On or before February 1, 2024, the office of economic  
5 opportunity shall submit a report on the number of microfinance lenders in  
6 this state, the availability of microbusiness credit in this state and any  
7 recommendations for increasing the availability of credit to  
8 microbusinesses in this state to the governor, the president of the  
9 senate, the speaker of the house of representatives, the joint legislative  
10 budget committee and the governor's office of strategic planning and  
11 budgeting and shall provide a copy of the report to the secretary of  
12 state.

13           K. On or before July 31, 2024, the office of economic opportunity  
14 shall submit a report to the governor, the president of the senate, the  
15 speaker of the house of representatives and the joint legislative budget  
16 committee and provide a copy of the report to the secretary of state that  
17 contains all of the following:

18           1. A list of the eligible entities that have received funding from  
19 the program.

20           2. The number of microbusiness loans made by each eligible entity  
21 using monies from the program and the type of business each loan recipient  
22 operates.

23           3. The average principal amount of microbusiness loans made by each  
24 eligible entity using monies from the program.

25           4. The county and zip code of each eligible entity.

26           5. The county and zip code of the recipients of each loan made to  
27 an eligible entity with monies from the program.

28           6. The current outstanding principal of microbusiness loans made by  
29 eligible entities using program monies.

30           7. The total amount of loan losses for microbusiness loans made by  
31 eligible entities using program monies.

32           8. The total amount of principal repaid to eligible entities for  
33 microbusiness loans made pursuant to this section.

34           9. The total amount of interest earned and fees charged by eligible  
35 entities for microbusiness loans made pursuant to this section.

36           L. The office of economic opportunity may not allocate more than  
37 \$2,000,000 of the monies deposited into the fund to an eligible entity.  
38 The office of economic opportunity shall allocate program funds so that  
39 there is a participating eligible entity from at least two different  
40 counties.

41           M. FROM AND AFTER JUNE 30, 2025, THIS SECTION IS REPEALED, AND ALL  
42 UNEXPENDED AND UNENCUMBERED MONIES IN THE MICROBUSINESS LOAN FUND  
43 ESTABLISHED BY THIS SECTION ARE TRANSFERRED TO THE STATE GENERAL FUND.

1           ~~M.~~ N. For the purposes of this section:

2           1. "Community development financial institution" means an entity  
3 that is currently certified pursuant to 12 Code of Federal Regulations  
4 section 1805.201.

5           2. "Eligible entity" means a community development financial  
6 institution or a nonprofit lender in this state with at least two years of  
7 lending experience.

8           3. "Microbusiness" means a business that is located in this state,  
9 that is independently owned and operated and that employs five or fewer  
10 people.

11           Sec. 7. Effective date

12           A. Section 20-466, Arizona Revised Statutes, as amended by this  
13 act, is effective from and after June 30, 2025.

14           B. Section 20-466.05, Arizona Revised Statutes, as added by this  
15 act, is effective from and after June 30, 2025.