

HOUSE BILL REPORT

HB 1191

As Reported by House Committee On:
Business & Financial Services
General Government Appropriations & Oversight

Title: An act relating to the expiration dates of the mortgage lending fraud prosecution account and its revenue source.

Brief Description: Changing the expiration dates of the mortgage lending fraud prosecution account and its revenue source.

Sponsors: Representatives Ryu, Kirby, Buys, Fitzgibbon and Bailey; by request of Department of Financial Institutions.

Brief History:

Committee Activity:

Business & Financial Services: 1/18/11 [DP];

General Government Appropriations & Oversight: 1/27/11, 2/1/11 [DP].

Brief Summary of Bill

- Delays the expiration date of the Mortgage Lending Fraud Prosecution Account and related surcharge until June 30, 2016.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: Do pass. Signed by 13 members: Representatives Kirby, Chair; Kelley, Vice Chair; Bailey, Ranking Minority Member; Buys, Assistant Ranking Minority Member; Blake, Condotta, Hudgins, Hurst, Parker, Pedersen, Rivers, Ryu and Stanford.

Staff: Jon Hedegard (786-7127).

Background:

In 2003 the Legislature created the Mortgage Lending Fraud Prosecution Account (Account), a specific fund to aid in the prosecution of consumer fraud in the mortgage lending process. The Account is administered by the Department of Financial Institutions (DFI). Funds for the Account are generated by a \$1 surcharge, assessed at the recording of a deed of trust. In

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order to defray the costs of collection, the county auditor may retain up to 5 percent of the funds collected. Once collected by a county, the funds must be transferred monthly to the State Treasurer who, in turn, must deposit the funds into the Account.

The DFI may use the Account to reimburse county prosecutors and/or the Office of the Attorney General (AG) for costs related to the investigation and prosecution of mortgage fraud cases. Reimbursable items include salaries, training costs for staff, and expenses related to investigation and litigation. The Director of the DFI or the Director's designee may authorize expenditures from the Account. The DFI is required to consult with the AG and local prosecutors in developing guidelines for the distribution of the funds, which are to be used to enhance law enforcement capabilities at both the state and local level.

The DFI must make an annual report to the Legislature regarding the use of the funds in the Account.

The Account, the surcharge, and the report created in 2003 were originally set to expire on June 30, 2006. In 2006 the expiration of the Account, the surcharge, and the report were delayed until June 30, 2011. In 2009 the annual report requirement was changed to expire on June 30, 2009, in an omnibus bill that eliminated or reduced the frequency of a number of reports prepared by state agencies.

Summary of Bill:

The expiration dates of the Mortgage Lending Fraud Prosecution Account and the surcharge are delayed until June 30, 2016.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on June 29, 2011.

Staff Summary of Public Testimony:

(In support) The Mortgage Lending Fraud Prosecution Account (Account) has provided necessary resources to pursue investigations and prosecutions of mortgage fraud. In recent years, funding has dropped due to fewer transactions, but this is still an important resource for county prosecutors and the Attorney General. Mortgage fraud is an ongoing problem. This provides resources across the state to catch and prosecute the people who commit mortgage fraud. This is an agency-requested bill. It delays the expiration of the surcharge and the Account. This will allow prosecutors to continue to pursue perpetrators of mortgage fraud. Revenues have dropped in recent years but the dollars this program provides are essential. King County does most of the prosecutions but cases have involved hundreds of homeowners across the state. There have been dozens of convictions and more major cases

are expected to be brought this year. The surcharge is a small amount but it brings very important resources. Cases have ranged from small, one-time frauds to complicated crime rings that involve millions of dollars. The prosecutors have focused on corrupt insiders who use their knowledge to take advantage of the system. Many of the rings have worked across county lines. While the King County Prosecutor has often taken the lead in cases, the crimes and victims range across the state. The frauds seen today are more complex than a few years ago. It requires more effort to commit and more time to prosecute the person or persons who committed the crime. Two types of fraud are on the increase. The first type occurs when someone moves into an unoccupied property and purports to own the property. Sometimes they rent it to unsuspecting third parties or even take money in a fraudulent sale. The second type involves targeting a homeowner who is having difficulty paying his or her mortgage. The homeowner is convinced to transfer the title to someone who has no intent but to defraud the homeowner. Funding the Account is essential in the prosecution of mortgage fraud. Without the Account, many prosecutions simply would not occur. In 2003 the mortgage brokers brought this bill to fight fraud and get at the bad actors. The Account should be extended. In five years, the Legislature can review the issue and determine if the Account is still necessary, if it should be extended again, or if possibly it should be made permanent.

(Opposed) None.

Persons Testifying: Representative Ryu, prime sponsor; Deborah Bortner, Department of Financial Institutions; David Seaver, King County Prosecutor's Office; and Steve Buckner, Washington Mortgage Professionals.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS & OVERSIGHT

Majority Report: Do pass. Signed by 12 members: Representatives Hudgins, Chair; Miloscia, Vice Chair; McCune, Ranking Minority Member; Ahern, Blake, Fitzgibbon, Ladenburg, Moscoso, Pedersen, Taylor, Van De Wege and Wilcox.

Staff: Michael Bennion (786-7118).

Summary of Recommendation of Committee On General Government Appropriations & Oversight Compared to Recommendation of Committee On Business & Financial Services:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on June 29, 2011.

Staff Summary of Public Testimony:

(In support) The sole purpose of the bill is to extend the legislation five years and fund county prosecutor efforts to pursue mortgage fraud cases. Original legislation in 2003 was brought up by the industry. Mortgage fraud remains rampant and there have been many success stories; there have been 38 felony convictions in the last few years, and there will be more cases to come in the near future. In the next two to three months, the Federal Bureau of Investigation should be releasing a report describing a case that it is currently investigating that would be the largest mortgage fraud case in the nation.

(Opposed) None.

Persons Testifying: Deb Bortner, Department of Financial Institutions.

Persons Signed In To Testify But Not Testifying: None.