

SENATE BILL REPORT

SHB 1081

As Reported By Senate Committee On:
Financial Services, Insurance & Housing, March 27, 2003

Title: An act relating to the mortgage lending fraud prosecution account.

Brief Description: Providing funds to investigate and prosecute mortgage lending fraud.

Sponsors: House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Hunter, Benson, Schual-Berke, Newhouse, Cooper, Roach and Simpson).

Brief History:

Committee Activity: Financial Services, Insurance & Housing: 3/27/03 [DPA].

SENATE COMMITTEE ON FINANCIAL SERVICES, INSURANCE & HOUSING

Majority Report: Do pass as amended.

Signed by Senators Benton, Chair; Winsley, Vice Chair; Keiser, Prentice, Roach and Zarelli.

Staff: Alison Mendiola-Hamilton (786-7576)

Background: Mortgage fraud, a type of "predatory lending," has gained nationwide attention in the past decade. Mortgage fraud generally involves the use of deceptive or fraudulent sales practices in the origination of a loan secured by real estate. Consumer advocates are concerned that such fraudulent loans threaten accomplishments made in community revitalization and home ownership across all segments of society.

Mortgage fraud may include loaning money without regard to the borrower's ability to repay, charging excessive rates and fees to a borrower who may in fact qualify for lower rates or fees, adding unnecessary coverage like single premium credit insurance, or failing to disclose the true terms of the loan.

Under Washington law, there are three acts which may be used to curb fraudulent mortgage lending practices. These laws include the Consumer Protection Act, the Mortgage Brokers Practices Act, and the Consumer Loan Act. Despite these laws, there is concern that enforcement resources are limited, leaving the door open to mortgage fraud.

Summary of Amended Bill: The mortgage lending fraud prosecution account is created. The purpose of this account is to fund criminal prosecution of mortgage lending fraud crimes.

Funds for this account come from a \$1.00 surcharge imposed by county auditors for recording deeds of trust. The auditor may retain up to 5 percent of the funds collected to administer collection, and the remaining funds are deposited, via the State Treasurer, into the mortgage lending fraud prosecution account.

The Department of Financial Institutions (DFI) is responsible for the distribution of the funds. The Department, in consultation with the Attorney General and local prosecutors, develops guidelines for use of the funds to enhance its capacity to pursue criminal prosecution of fraudulent activities within the mortgage lending process. The department works with the Attorney General and local police to investigate and prosecute claims of mortgage lending fraud stemming from consumer complaints.

DFI makes a written report to the Legislature annually regarding the use of the funds, commencing December 31, 2004.

The mortgage lending fraud prosecution account and the accompanying \$1.00 surcharge expire on June 30, 2006.

Amended Bill Compared to Substitute Bill: The original bill provided that all receipts into the account, in excess of \$700,000, be transferred to the Housing Trust Fund. The original bill provided that the account expire in 2008. The amended bill eliminates the transfer of funds to the Housing Trust Fund and changes the bill expiration date to 2006.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: None.

Testified: No one.