

# HOUSE BILL REPORT

## HB 2338

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**As Reported by House Committee On:**  
Financial Institutions & Insurance

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

**Brief Description:** Extending the mortgage lending fraud prosecution account.

**Sponsors:** Representatives Kirby, Roach and Chase; by request of Department of Financial Institutions.

**Brief History:**

**Committee Activity:**

Financial Institutions & Insurance: 1/12/06 [DP].

**Brief Summary of Bill**

- Delays the expiration of the Mortgage Lending Fraud Prosecution Account from June 30, 2006, until June 30, 2011.

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### HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Majority Report:** Do pass. Signed by 11 members: Representatives Kirby, Chair; Ericks, Vice Chair; Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Newhouse, O'Brien, Santos, Serben, Simpson, Strow and Williams.

**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 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 can use the Account to reimburse county prosecutors and the Attorney General for costs related to the investigation and prosecution of mortgage fraud cases. Reimbursable items include training costs for investigators and prosecutors and expenses related to investigation and litigation. County prosecutors may even seek recovery of salaries for

members of their staff who were assigned to the prosecution of a particular case. The Director of the DFI (or designee) may authorize expenditures from the fund. The DFI is required to consult with the Attorney General 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 Mortgage Lending Fraud Prosecution Account, the surcharge, and the report expire on June 30, 2006.

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**Summary of Bill:**

The expiration dates of the Mortgage Lending Fraud Prosecution Account, the surcharge, and the report are delayed until June 30, 2011.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** This bill is requested by the Department of Financial Institutions (DFI). The DFI does not receive any funds from the account. The DFI uses its own resources to perform investigations. The funds are disbursed to county prosecutors or the Attorney General. The Attorney General works with the DFI on mortgage fraud issues. This is a good program. It works and it should continue. The Attorney General supports the bill. Prosecutors support the bill. The original program was brought by the mortgage broker community. Mortgage brokers support extending the program today. It is an important issue. Prosecution of white collar crime can be a low priority. The program provides resources to catch white collar criminals. Washington has a unique and important law regarding mortgage fraud. It is a model for other states. Mortgage fraud is a major problem. Please extend the program for as long as you can.

**Testimony Against:** None.

**Persons Testifying:** Chuck Cross, Department of Financial Institutions; Patrick Sainsbury, Washington Association of Prosecuting Attorneys, King County Prosecuting Attorneys, and Spokane County Prosecuting Attorneys; Scott Blonien, Attorney General's Office; Adam Stein, Washington Association of Mortgage Brokers; Richard Hagar, American Home Appraisal.

**Persons Signed In To Testify But Not Testifying:** None.