

# FINAL BILL REPORT

## SHB 1081

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Synopsis as Enacted

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

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

**House Committee on Financial Institutions & Insurance**  
**House Committee on Appropriations**  
**Senate Committee on Financial Services, Insurance & Housing**

**Background:**

Predatory Lending. Since the late 1990s, there has been increasing discussion nationwide regarding the marketing and lending practices of certain members of the mortgage lending industry, particularly those involved in the subprime market. Subprime loans are those issued to borrowers who do not meet the credit standards required to receive a loan from more traditional lenders. Some unscrupulous lenders engage in a variety of fraudulent and/or deceptive practices resulting in loan agreements that are detrimental to the financial interests of the borrowers and which unfairly benefit the lender. Such predatory lending practices tend to diminish the financial benefits of home ownership by retarding the accumulation of equity and substantially increasing the likelihood of default and foreclosure, a phenomenon that some have characterized as a national trend towards asset depletion. The negative effects of such lending practices arguably have a disproportionate impact on low income persons, minorities, and the elderly.

State Regulation. Washington law generally prohibits mortgage lenders from engaging in practices that involve fraud, deceit, or misrepresentation. However, state law does not directly address some of the practices associated with predatory lending, such as excessive fees, prepayment penalties, and balloon payment requirements.

**Summary:**

A fund is created to be administered by the Department of Financial Institutions (DFI) for the purpose of prosecuting consumer fraud on the part of mortgage lenders. 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 fund is derived from a \$1 surcharge assessed by the county auditor on individuals

recording deeds 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 are transferred monthly to the State Treasurer who, in turn, deposits the funds into an a specially designated account.

The DFI has sole authority regarding the expenditure of funds from the account and must report yearly to the Legislature regarding account activity.

This act expires June 30, 2006.

**Votes on Final Passage:**

House 94 0

Senate 45 0 (Senate amended)

House 98 0 (House concurred)

**Effective:** July 27, 2003