

# HOUSE BILL REPORT

## HB 2315

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**As Passed House:**  
February 3, 2016

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

**Brief Description:** Addressing the expiration date of the mortgage lending fraud prosecution account.

**Sponsors:** Representatives Kirby, Blake and Stanford; by request of Department of Financial Institutions.

**Brief History:**

**Committee Activity:**

Business & Financial Services: 1/12/16, 1/13/16 [DP].

**Floor Activity:**

Passed House: 2/3/16, 97-0.

**Brief Summary of Bill**

- Delays the expiration date of the Mortgage Lending Fraud Prosecution Account and related surcharge until June 30, 2021.

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### HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

**Majority Report:** Do pass. Signed by 10 members: Representatives Kirby, Chair; Stanford, Vice Chair; Vick, Ranking Minority Member; McCabe, Assistant Ranking Minority Member; Blake, Dye, Hurst, Kochmar, Ryu and Santos.

**Staff:** Peter Clodfelter (786-7127).

**Background:**

The Mortgage Lending Fraud Prosecution Account.

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 Attorney General for costs related to the investigation and prosecution of mortgage fraud cases. 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 rules for the distribution of the funds.

The Account and the surcharge created in 2003 were originally set to expire on June 30, 2006. In 2006 the expiration of the Account and the surcharge was delayed until June 30, 2011. In 2011 the expiration of the Account and the surcharge was delayed until June 30, 2016.

**Summary of Bill:**

The expiration date of the Mortgage Lending Fraud Prosecution Account and the related \$1 surcharge is extended until June 30, 2021.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This bill was requested by the Department of Financial Institutions. The Mortgage Lending Fraud Prosecution Account (Account) has been and remains an important resource for prosecutors. Even after 2008, mortgage fraud continues to occur, particularly in the context of mortgage originations and mortgage loan modifications. Although the overall amount of mortgage fraud is down, the sophistication of mortgage fraud has increased. Since 2008 scammers have increasingly targeted vulnerable homeowners and are engaging in foreclosure rescue scams in which a scammer promises to rescue a vulnerable person's home but does no work to do so and, instead, steals the vulnerable homeowner's money. Family members, caregivers, and strangers have all perpetrated these crimes against vulnerable homeowners. Police generally do not have the time or resources to investigate mortgage fraud crimes. Many people have gone bankrupt, lost homes, and considered suicide because of mortgage fraud crimes. Currently, the Account funds several prosecutors and an investigator in King County. The King County prosecutors have developed expertise in prosecuting these cases and should be allowed to continue their work. Although most prosecutions funded by the Account occur in King County, the victims who are helped by the prosecutions are spread throughout Washington. Dozens of prosecutions funded by the Account are expected this year. Last year the Legislature strengthened the law related to mortgage fraud penalties. This year the Legislature should extend the expiration of the

Account and related \$1 surcharge so necessary prosecutions can continue. The existing Account balance of about \$375,000 will cover the deficiency shown in the fiscal note.

(Opposed) None.

**Persons Testifying:** Representative Kirby, prime sponsor; Charles Clark, Department of Financial Institutions; and Hugo Torres and Jennifer Atchison, King County Prosecutor's Office.

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