

# SENATE BILL REPORT

## SB 5109

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As of February 10, 2025

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

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

**Sponsors:** Senators Kauffman, Stanford, Lovelett and Nobles.

**Brief History:**

**Committee Activity:** Business, Financial Services & Trade: 1/23/25, 1/29/25 [DP, w/oRec].

Ways & Means: 2/10/25.

**Brief Summary of Bill**

- Increases the charge to support the Mortgage Lending Fraud Prosecution Account at the time of recording a deed of trust by county auditors from \$1 to \$5.
- Removes sunset provisions related to this Mortgage Lending Fraud Prosecution Account that are set to expire on June 30, 2027.

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### SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

**Majority Report:** Do pass.

Signed by Senators Kauffman, Chair; Cortes, Vice Chair; Hasegawa, Lovick and Stanford.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Dozier, Ranking Member; Fortunato, McCune and Wilson, J..

**Staff:** Clint McCarthy (786-7319)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

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## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Kimmy Eide (786-7471)

**Background:** The Mortgage Lending Fraud Prosecution Account (account) was established in 2003, and authorized county auditors charge \$1 at the time of recording each deed of trust to fund the account. The auditor is allowed to retain 5 percent of the funds that they collect to administer the collection of the fund. The remaining funds are deposited into the account. The Department of Financial Institutions distributes the funds and develops rules for the use of the funds to pursue criminal prosecution of fraudulent activities as part of the mortgage lending process. The account is set to expire on June 30, 2027.

**Summary of Bill:** The charge collected at the recording time of each deed of trust by county auditors is increased from \$1 to \$5. The sunset provisions for the account are removed.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony (Business, Financial Services & Trade):** PRO: This bill will make the prosecution of mortgage fraud stronger in the state. This fee has not been increased since 2003. It is a consumer protection bill. When you consider AI tools and more sophisticated bad actors, these funds will assist the prosecution of fraud. These are difficult cases to prosecute and take time and money. In the two decades since the establishment of the account, the fee has not changed. The fund was enough to pay for two FTEs in 2011. In current day, it covers half an FTE. Increasing this fee and removing the sunset provision will allow us to go after these scams.

**Persons Testifying (Business, Financial Services & Trade):** PRO: Senator Claudia Kauffman, Prime Sponsor; Patrick Hinds, King County Prosecuting Attorney's Office; Hugo Torres, King County Prosecuting Attorney's Office.

**Persons Signed In To Testify But Not Testifying (Business, Financial Services & Trade):** No one.

**Staff Summary of Public Testimony (Ways & Means):** PRO: The Mortgage Lending Fraud Prosecution Account (MLFP) was initially created in 2003. The MLFP was intended to be revenue generating, but as inflation and the cost of investigating and litigating these crimes has increased, the \$1 fee has remained the same. There is a widening gap in program

funding. In 2011, the fund was sufficient to support two prosecutors and an investigator in the King County Prosecuting Attorney's Office. As of January, 2025, funding is sufficient for half of an investigator and less than half of a prosecutor. Instances of mortgage crime have not decreased. A \$5 surcharge is virtually imperceptible to lenders and consumers.

OTHER: Instead of raising fees, it would be more appropriate to transfer existing funds in DFI's nonappropriated account to the mortgage lending fraud prosecution account. There's 2.7 million in the Governor's budget for financial fraud which goes to the Department of Commerce, so efforts could be consolidated.

**Persons Testifying (Ways & Means):** PRO: Patrick Hinds, King County Prosecuting Attorney's Office; Hugo Torres, King County Prosecuting Attorney's Office.

OTHER: Brad Tower, Community Bankers of Washington.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.