



Department of Commerce
Innovation is in our nature.

Foreclosure Fairness Act 2015 Summit

October 27, 2015



Welcome!



- **Welcome and introductions**
- **Summit goals**
- **Ground rules**
- **Legislature's expectation**



Legislature's Expectation

“The department must convene a work group of interested stakeholders to review the state's deed of trust act contained in Title 61 RCW. The work group should include, but not be limited to, representatives from financial institutions, loan servicing and trustee service companies, and advocacy groups representing homeowners and borrowers. **The work group is tasked to review and make recommendations to ensure that the act remains a workable system for financial institutions, loan servicing companies, trustee, homeowners, and borrowers.** A report on the review and recommendations is due to the governor and legislature by December 1, 2015. Up to \$20,000 from the foreclosure fairness account may be used to defray the department's costs for convening and providing administrative and technical support to the work group.”

ESSB 6052, Sec. 128 (35), emphasis added



State of the Program

1. Mediation program – Department of Commerce
2. Housing counseling – Housing Finance Commission
3. Consumer protection services – Attorney General Office
4. Legal-aid services – Office of Civil Legal Aid/Northwest Justice Project
5. Public outreach and education – Department of Financial Institutions



Overall Program Statistics



- Program received **\$19** million in revenue
- Counseling was provided to over **26,000** homeowners
- Commerce received & processed over **8,000** referrals
- **50%** of the closed mediations ended with agreement reached
- More and more agreements are reached before a session occurs

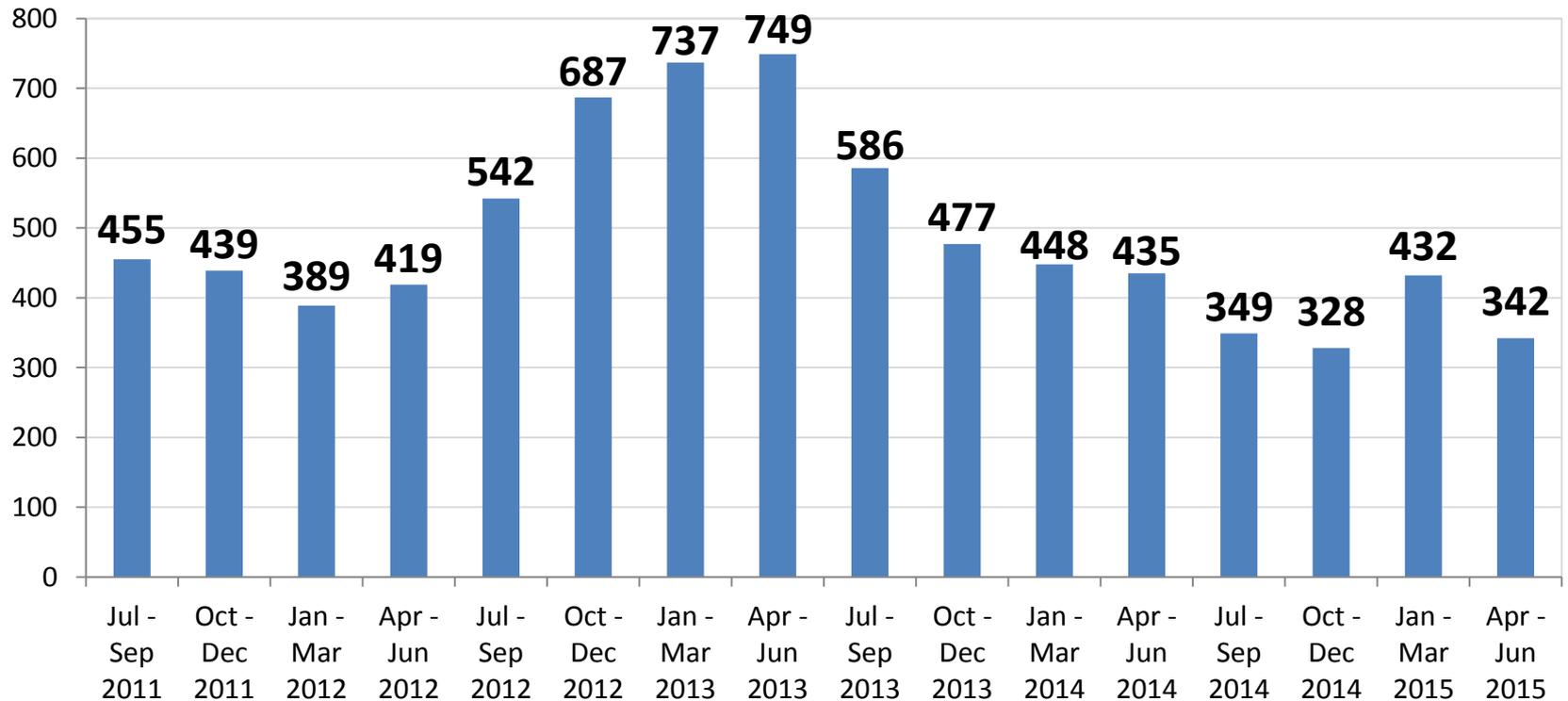
Data as of September 30, 2015



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Referrals to Mediation Received

8,175 Referrals Received & Processed by Commerce



Data as of September 30, 2015



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Referrals by County

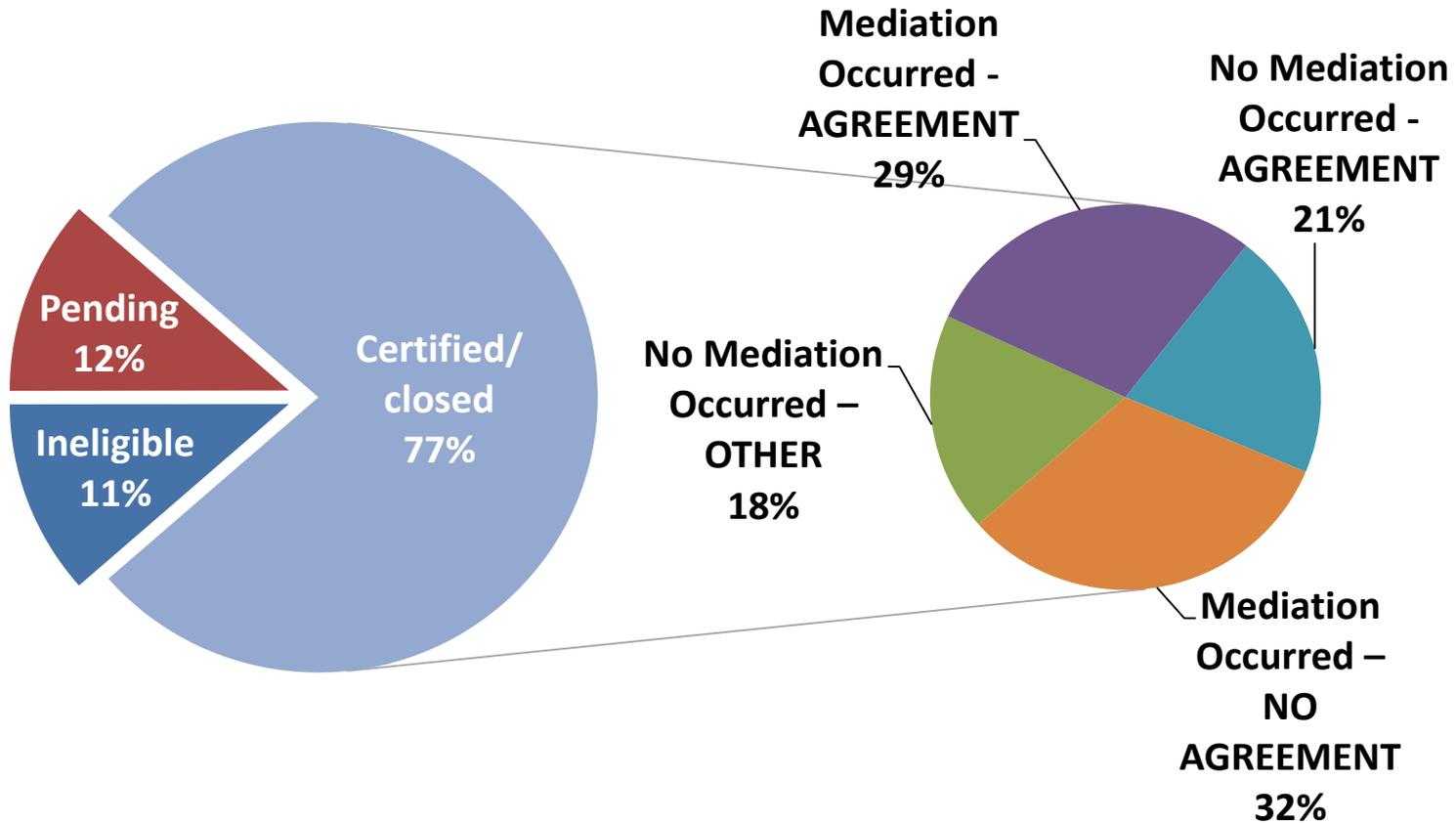
Top 10 Counties	Referrals	Percent of Total
King	3,236	40%
Snohomish	1,419	17%
Pierce	1,327	16%
Spokane	533	7%
Clark	388	5%
Kitsap	218	3%
Thurston	213	3%
Whatcom	129	2%
Yakima	105	1.3%
Skagit	93	1.1%

Data as of September 30, 2015



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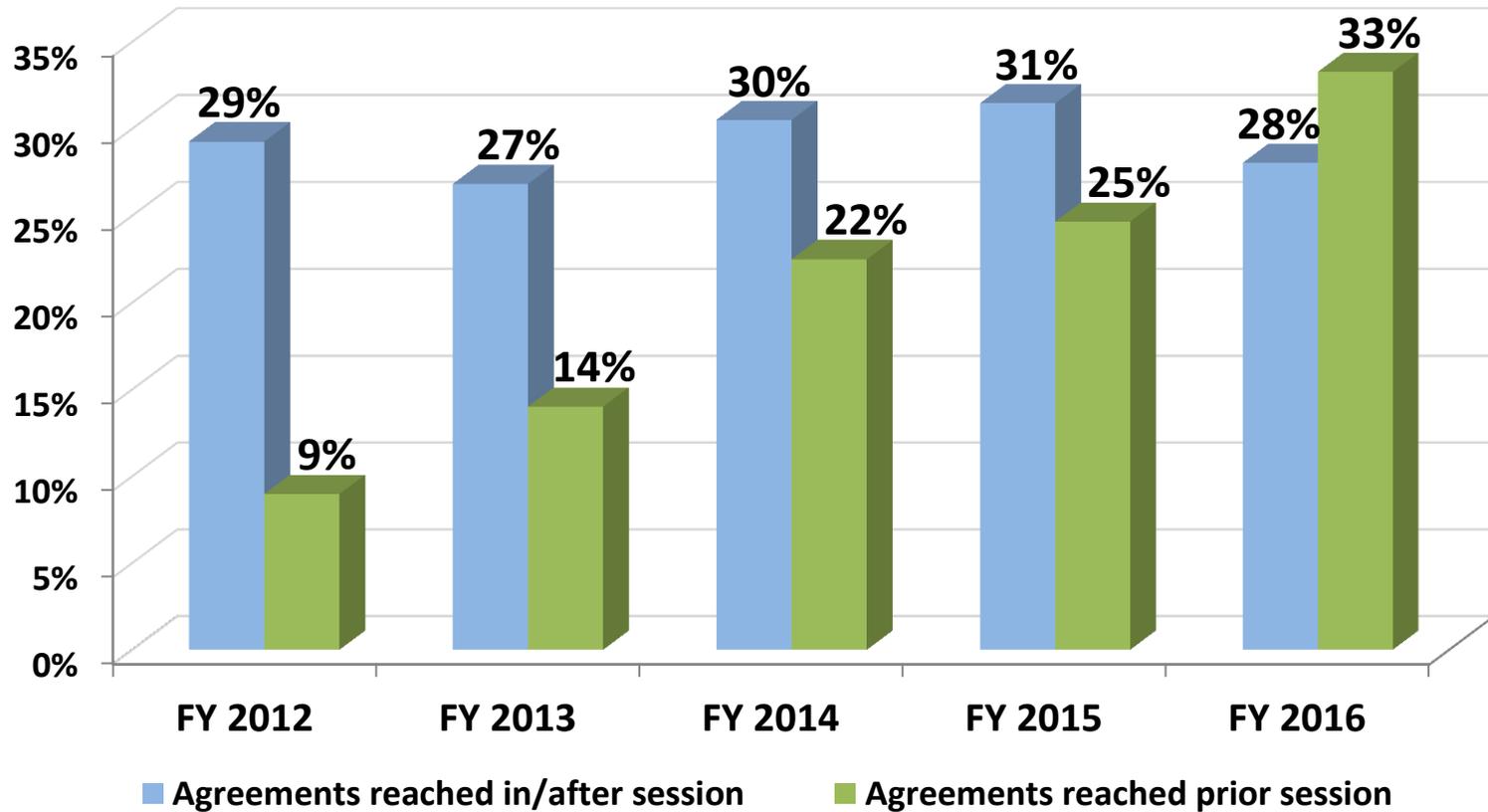
Mediation Results



Data as of September 30, 2015



Mediation Results Year-Over-Year



Data as of September 30, 2015



Customer Feedback



Feedback from the Beneficiary & Borrower Reps

Their satisfaction with...	Very of mostly satisfied	Very or mostly dissatisfied
... the program	42%	47%
... the mediators' performance	28%	44%
... mediators' knowledge and application of the FFA statute	45%	34%
... mediators' knowledge and application of Commerce's guidelines	34%	32%
... mediators' knowledge of the federal guidelines	16%	50%
... mediators' knowledge of NPV	16%	58%

Date source: "Borrower and Beneficiary Representatives Satisfaction with FFA" survey, Sept. 2015 (49 responses received)—see survey results on the [program website](#)



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Mediators' and DCRs' Expectations of Commerce

Mediators are...		
... clear about Commerce's expectations of them	94% very or mostly clear	1% very or mostly unclear
... satisfied with the assistance and support they receive from Commerce	82% very or mostly satisfied	3% very or mostly dissatisfied
... satisfied with Commerce's program guidelines	90% very or mostly satisfied	3% very or mostly dissatisfied
... following Commerce's program guidelines	91% closely or very closely	1% loosely or very loosely

Comments re. additional support from Commerce:

- Most feel well supported and need no additional assistance
- A few “try to stay away from Commerce as much as possible”
- Some indicated they would like more guidance or training
- Some would like to see an improved certification form

State of the Program

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- ➔ 2. Housing counseling – Housing Finance Commission
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5. Public outreach and education – Department of Financial Institutions



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FFA Outreach/Media Coverage

- Brochures in 11 languages
- Radio spots
 - English & Spanish
- Television spots
- New Day Northwest
- Print media
 - English & Spanish
- Online Geo Targeting
- Facebook
- Pandora
- Twitter
- Theater PSAs
- Direct Mail/ValPak
- In-Person at estimated 100 events each year
- Direct mail packets with letter of explanation of the FFA program and FFA brochures in each language to:
 - Churches - 436
 - Schools - 295
 - Food banks
 - Libraries – 400+
 - County assessors – 39
 - Economic Development Boards – 34
 - Rotary Clubs – 35
 - United Ways – 22
 - Chambers of Commerce – 146
 - Local Area Planning Partnerships - 29

FFA Funds Spent to date on Outreach

- 2011-2013 Biennium \$125,325.01
- 2013-15 Biennium \$306,169.15
- 2015-17 Biennium \$29,455.56



Washington State Department of Financial Institutions

“Regulating financial services to protect and educate the public and promote economic vitality.”

Branded FFA Outreach



DON'T WAIT
until it's too late

Act now to reach a resolution
with your lender!

FREE
Foreclosure Prevention
Counseling
1-877-894-HOME(4663)

Information & Resources
www.homeownership.wa.gov

The toll-free number for the
statewide civil legal aid
hotline is 1-800-606-4819.



WASHINGTON STATE
HOUSING FINANCE
COMMISSION
www.wshfc.org



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www.commerce.wa.gov/foreclosures

¿Estás enfrentando una
EJECUCION HIPOTECARIA?
¡NO ESPERE
hasta que sea demasiado tarde!

Obtener asistencia **GRATUITO**
del estado de Washington en relación
con la ejecución hipotecaria.

តើអ្នកកំពុងតែប្រឈម
មុខនឹងការរឹបអូសយ
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**Are You Facing
Foreclosure?**

Facing Foreclosure?
DON'T WAIT
until it's too late
Get Help NOW!



FACING FORECLOSURE?

There is a STATE program that can help.

Call Before It's Too Late!
1-877-894-4663(HOME)
It will connect you with a
FREE HOUSING COUNSELOR

Learn about the Washington's Foreclosure Fairness Program at
www.homeownership.wa.gov



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DON'T WAIT
until it's too late

The Washington State Foreclosure
Fairness Program Can Help You!



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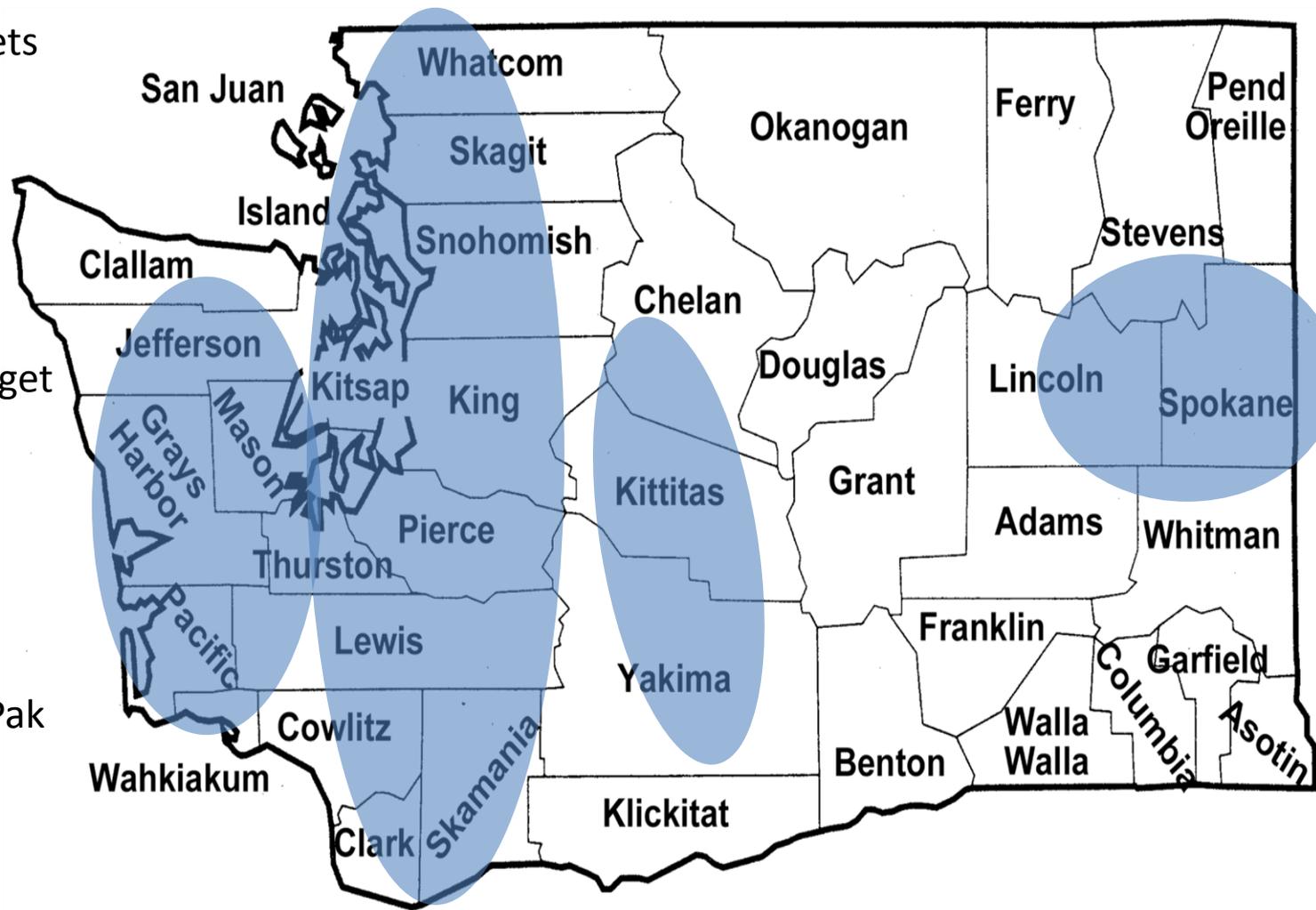


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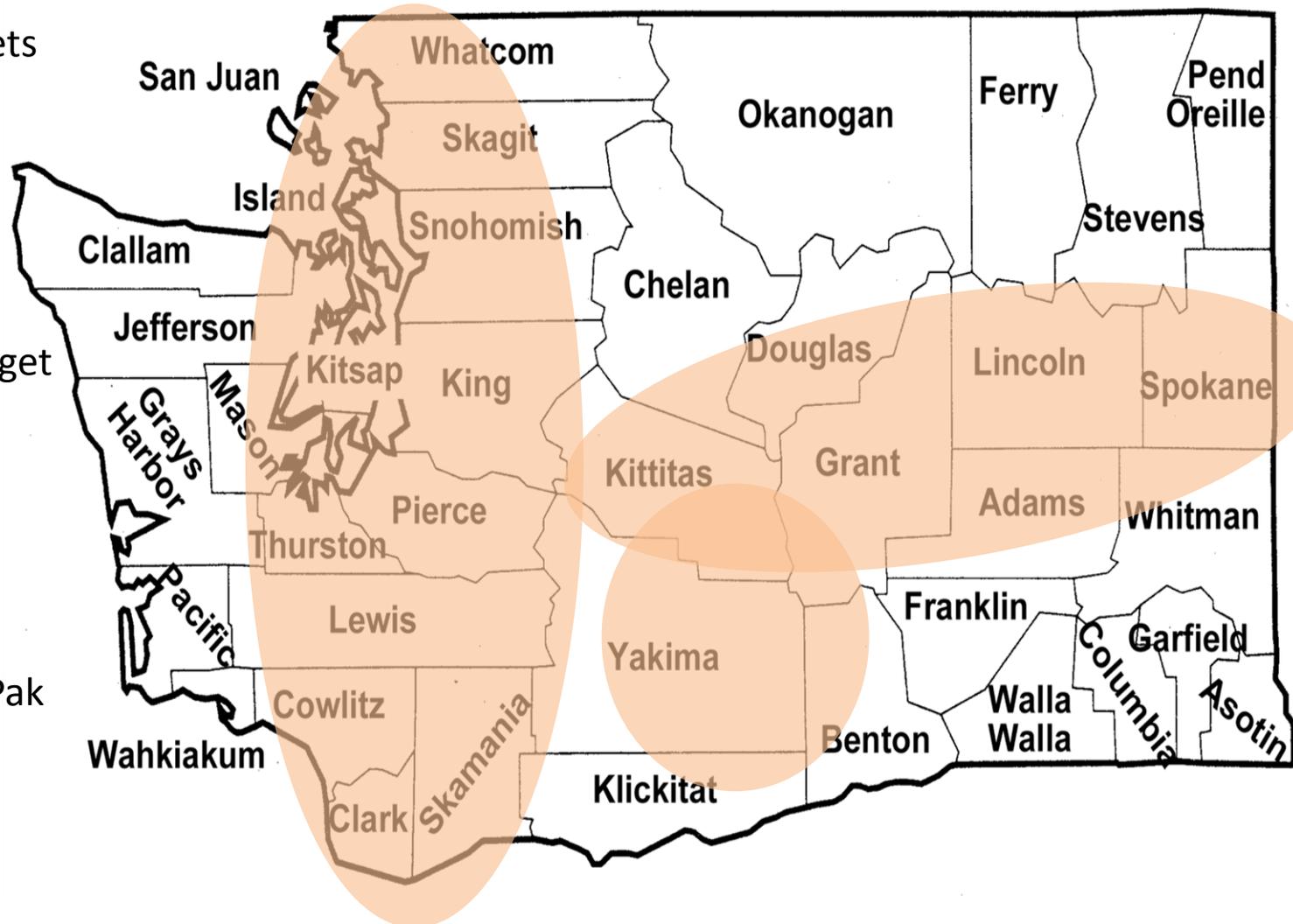


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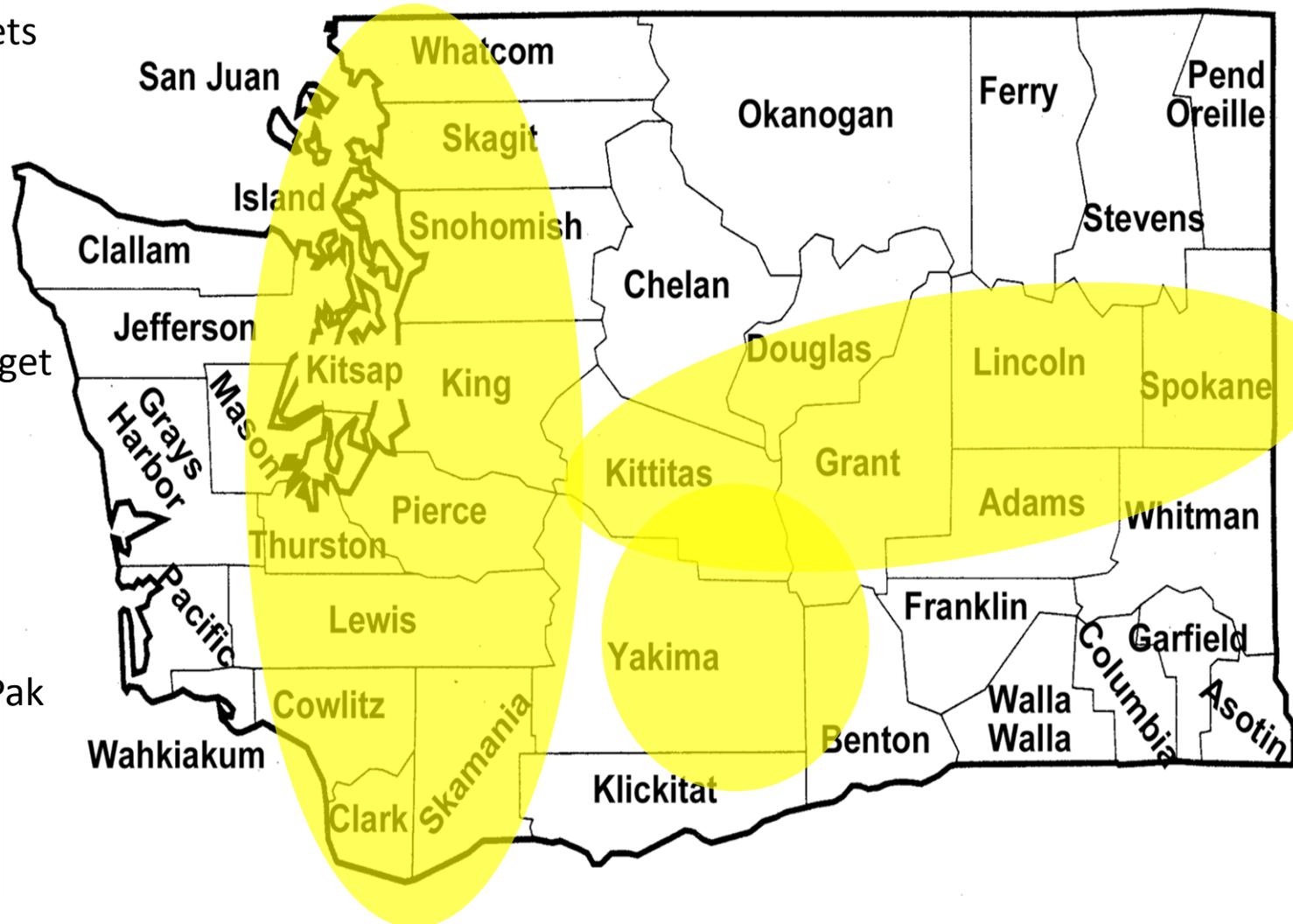


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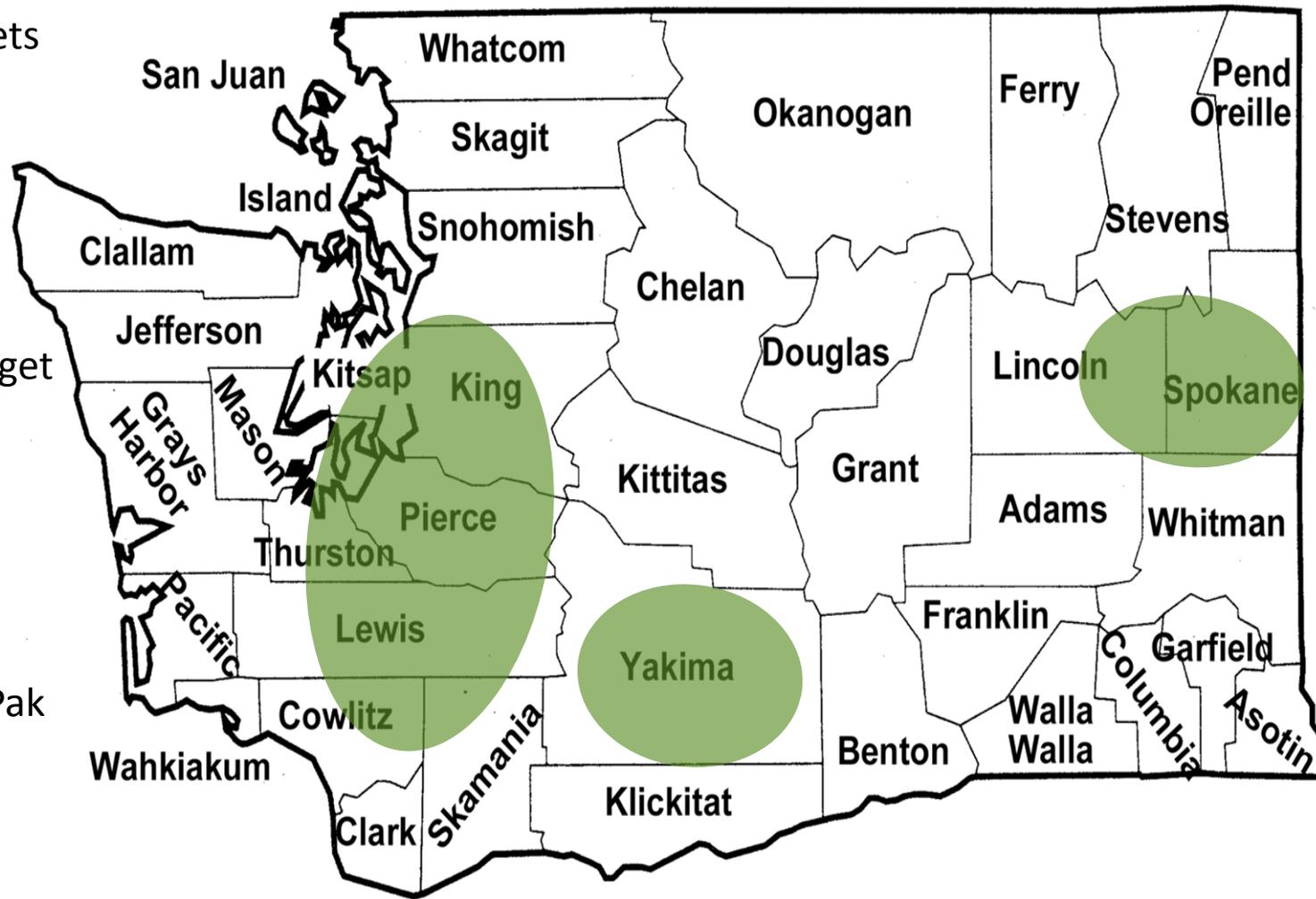


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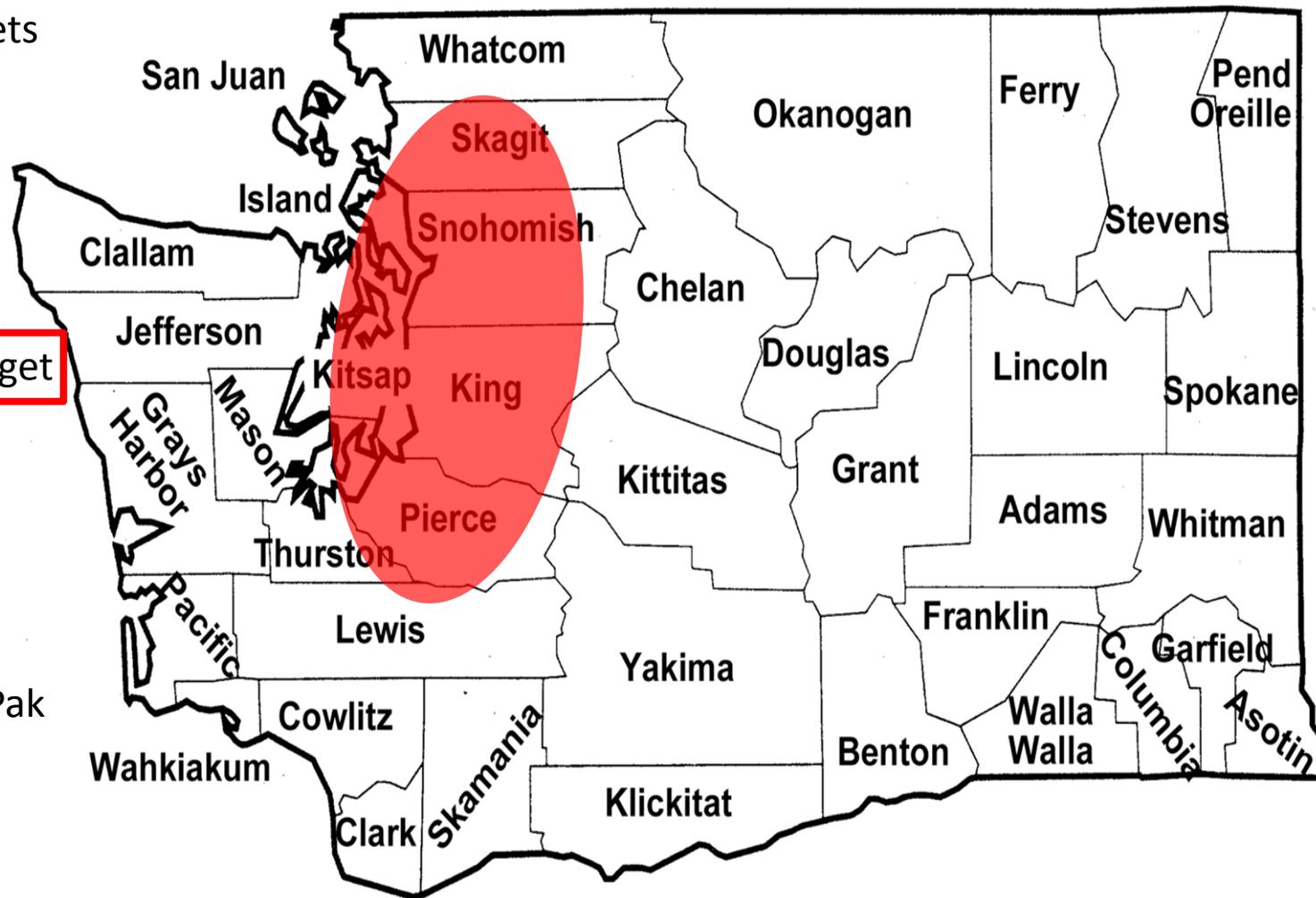


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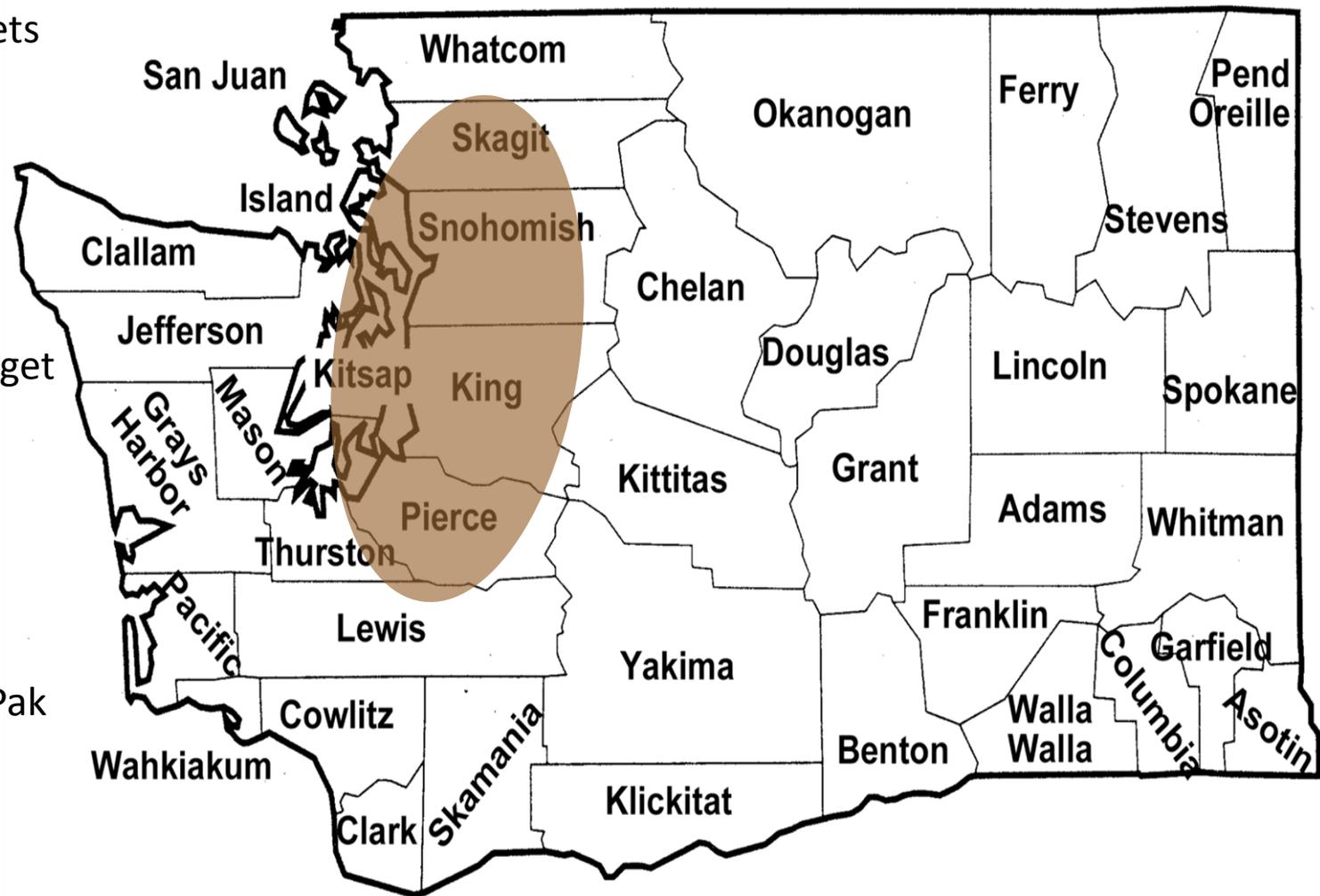


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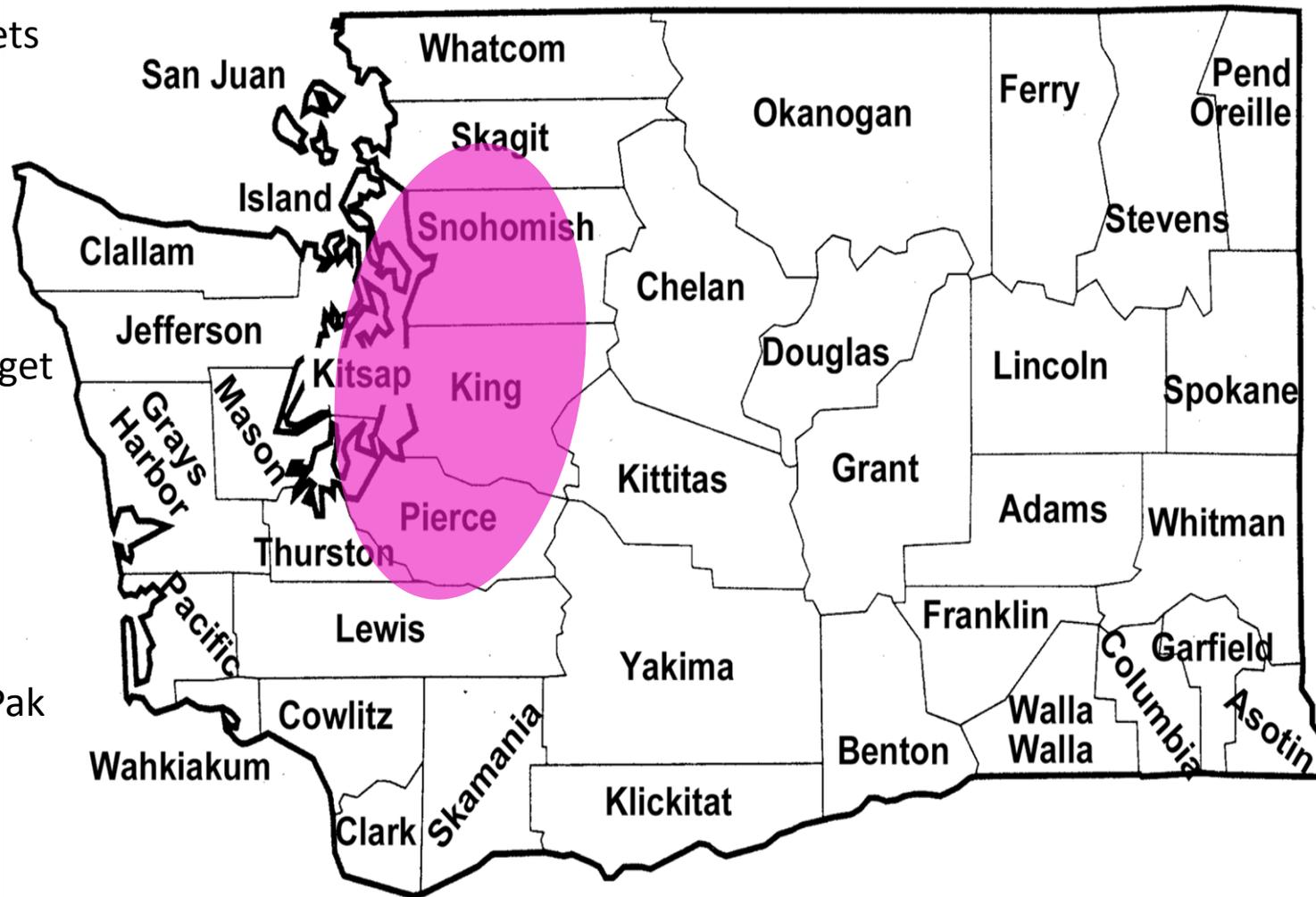


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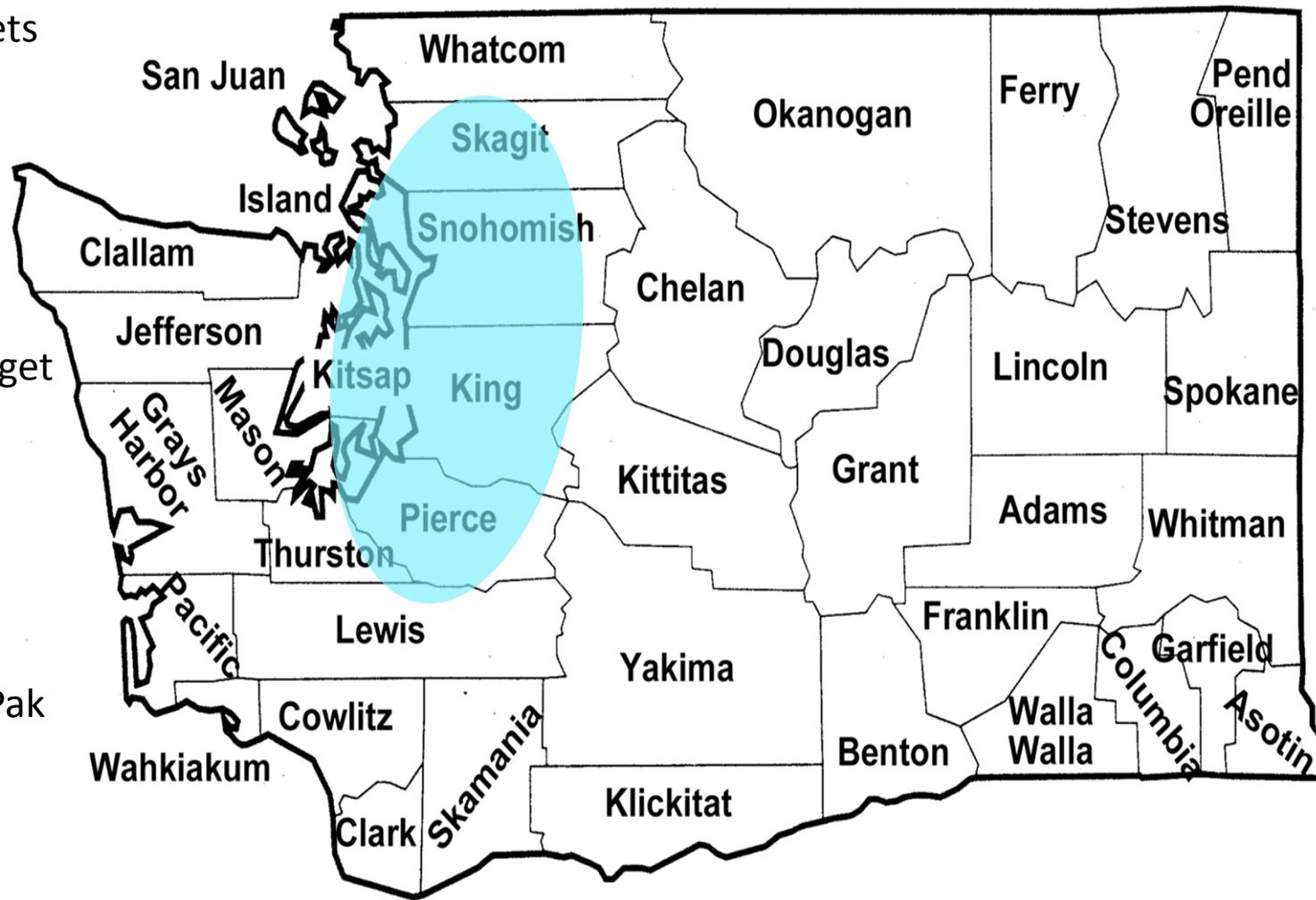


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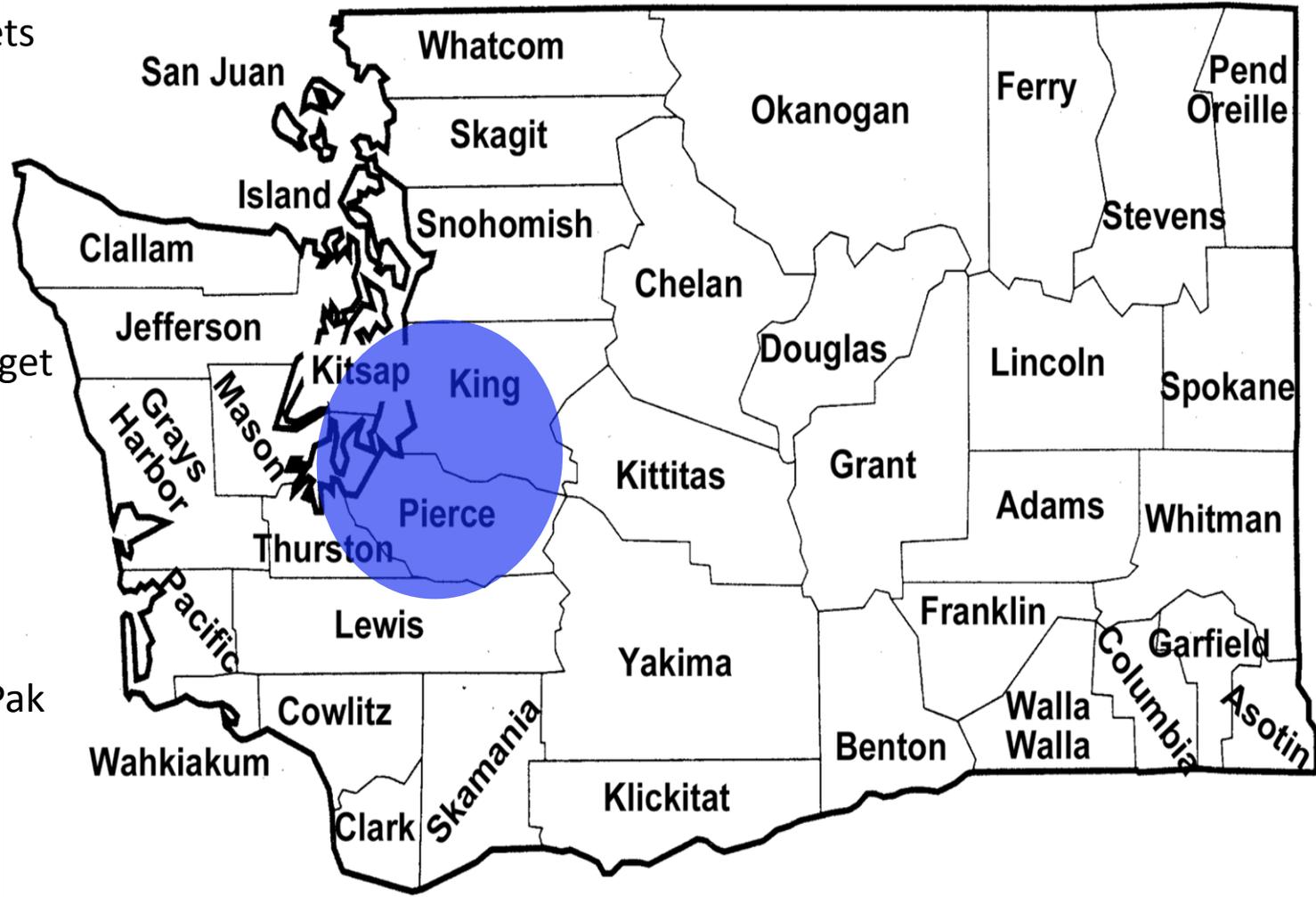


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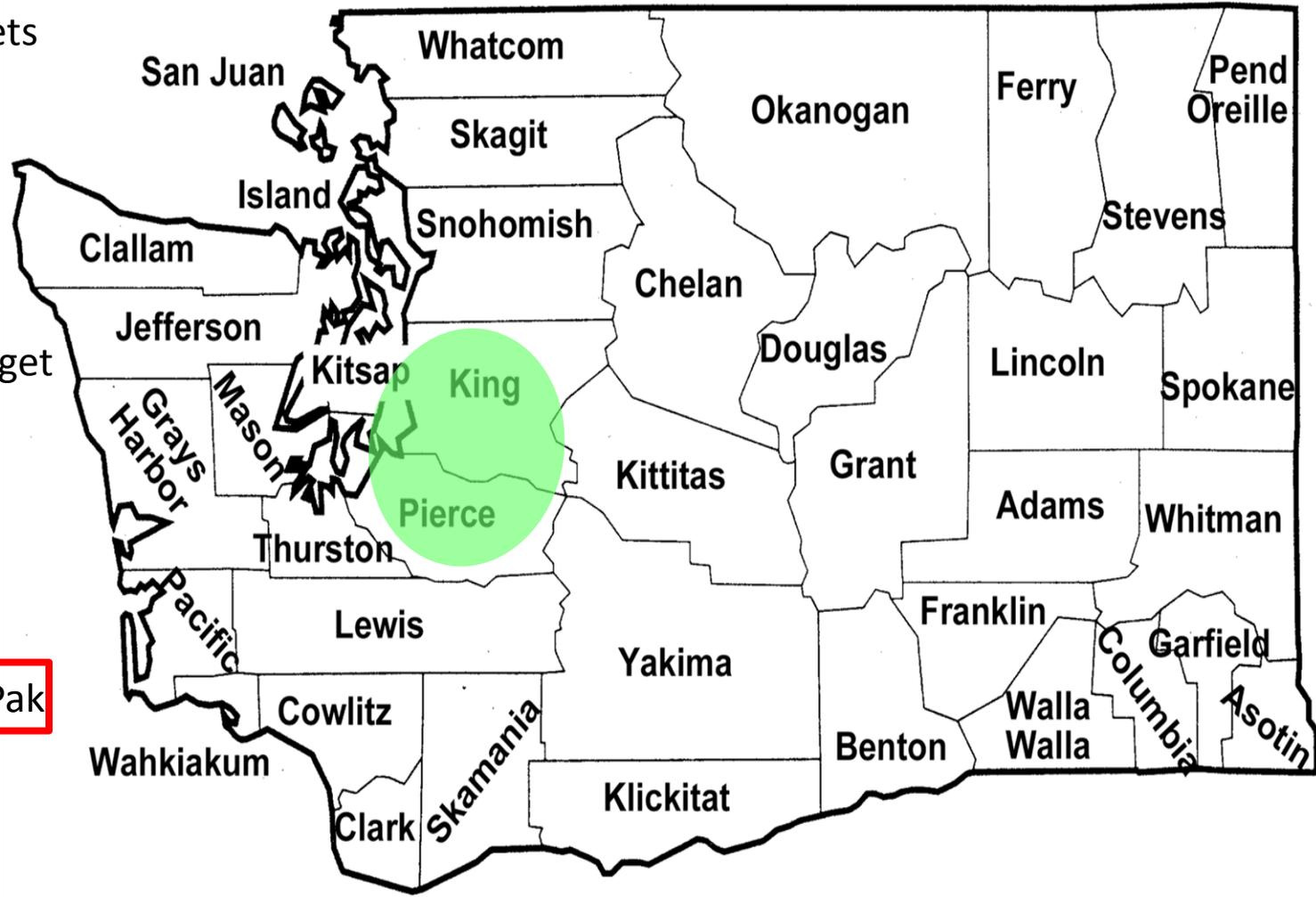


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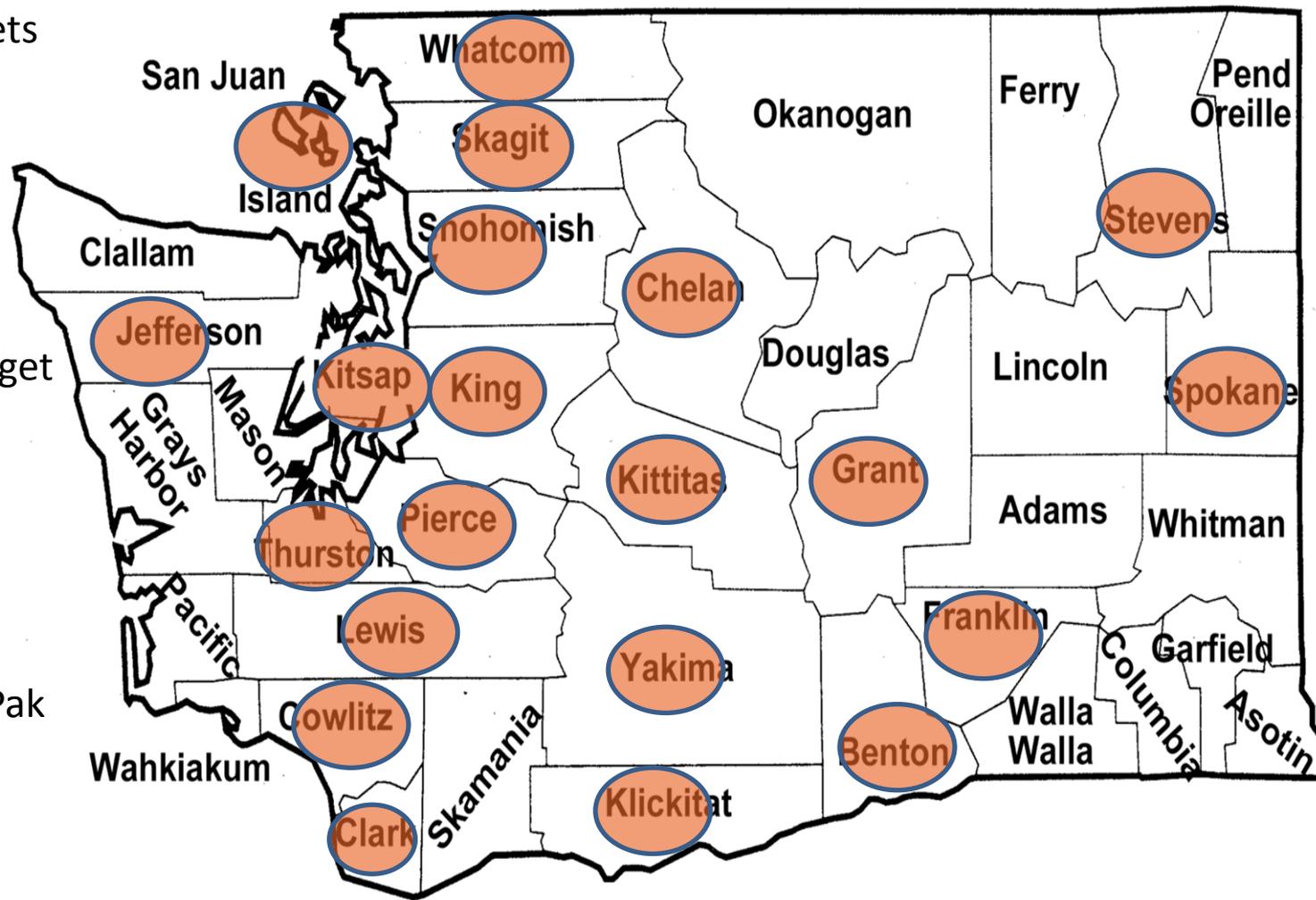


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Access to Mediation – Lili Sotelo

- Referral process
- Exemption from participation in mediation



Break

Please return to your seats in 10 minutes



Mediation Issues



1. Document exchange process
2. Mediation timeline
3. Pre-session check-in with the parties
4. Mediator's perspective, issues, recommendations



Document Exchange Process

- [Hope Loan Port](#)
- Oregon's Mediation Program Manager ([Part 1](#) & [Part 2](#))



Mediation Timeline

- FFA intended 70 days from mediator assignment to certification
- Program data shows (6,089 certified cases):
 - Case lengths range from 6 to 1,278 days
 - Average: 257 days per case
 - Median: 212 days per case
- Is the 70-day timeline contemplated in statute too short?



Pre-Session Check-in with the Parties

Statute:

“The mediator may schedule phone conferences, consultations with the parties individually, and other communications **to ensure that the parties have all the necessary information and documents to engage in a productive mediation.**”

RCW 61.24.163 (7)(a), emphasis added

Expected by Commerce:

Mediators *must* check-in with the parties 1-2 weeks prior to each session to ensure a productive session.



Mediators' Perspective, Issues, Recommendations



- Observations, discussion with the mediators



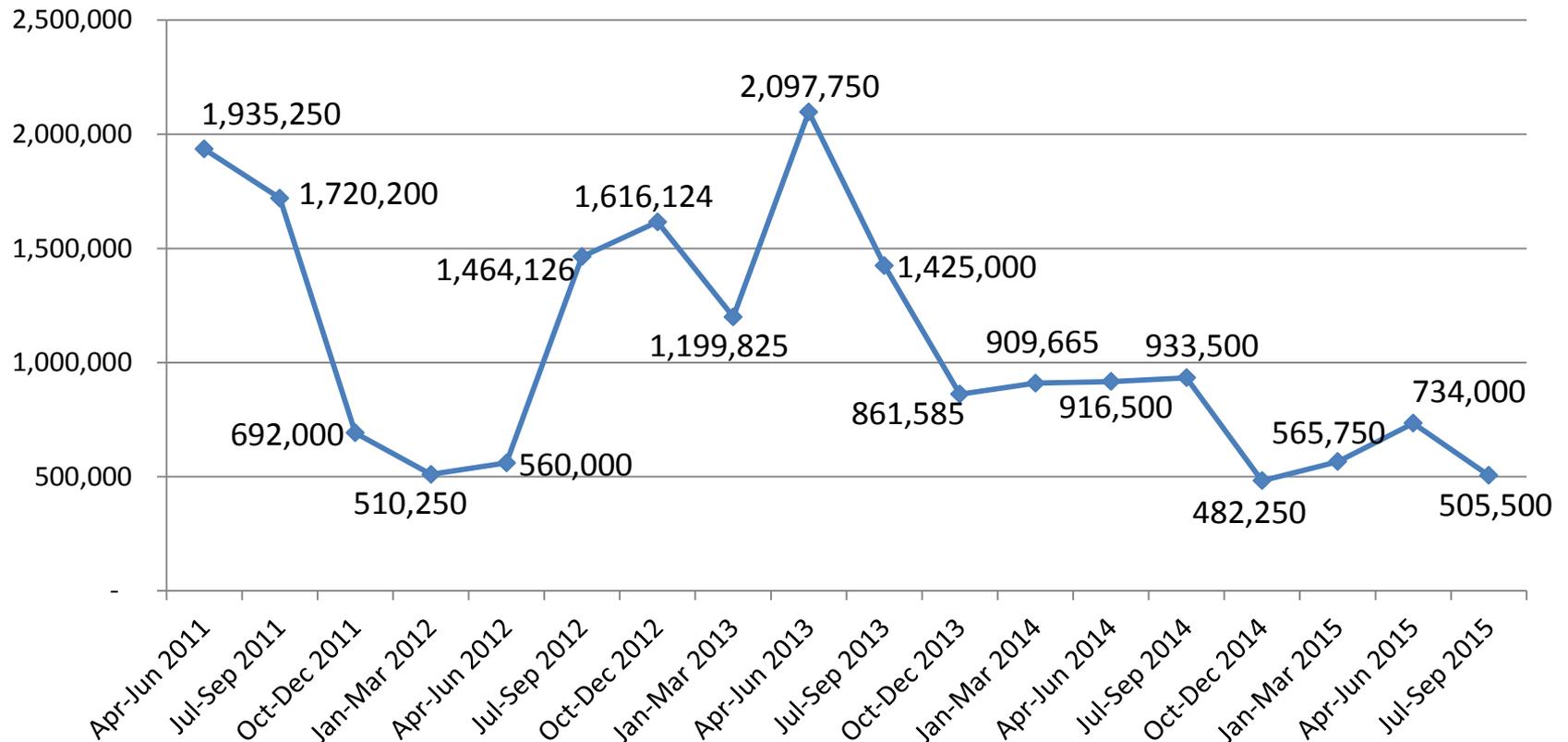
Program Sustainability and Funding

1. Current funding status
2. Program size and priorities
3. Appropriate levels of funding
4. Funding sources
5. Banking industry's perspective, exemption from paying FFA fees
6. Mediator fees



Foreclosure Fairness Fund Revenue

\$19 Million Received



Funds received in a quarter are for Notices of Default issued in the previous quarter.
Reports and payments are due to Commerce 45 days after the end of each quarter (RCW 61.24.174).

Data as of September 30, 2015

Foreclosure Fairness Fund Revenue

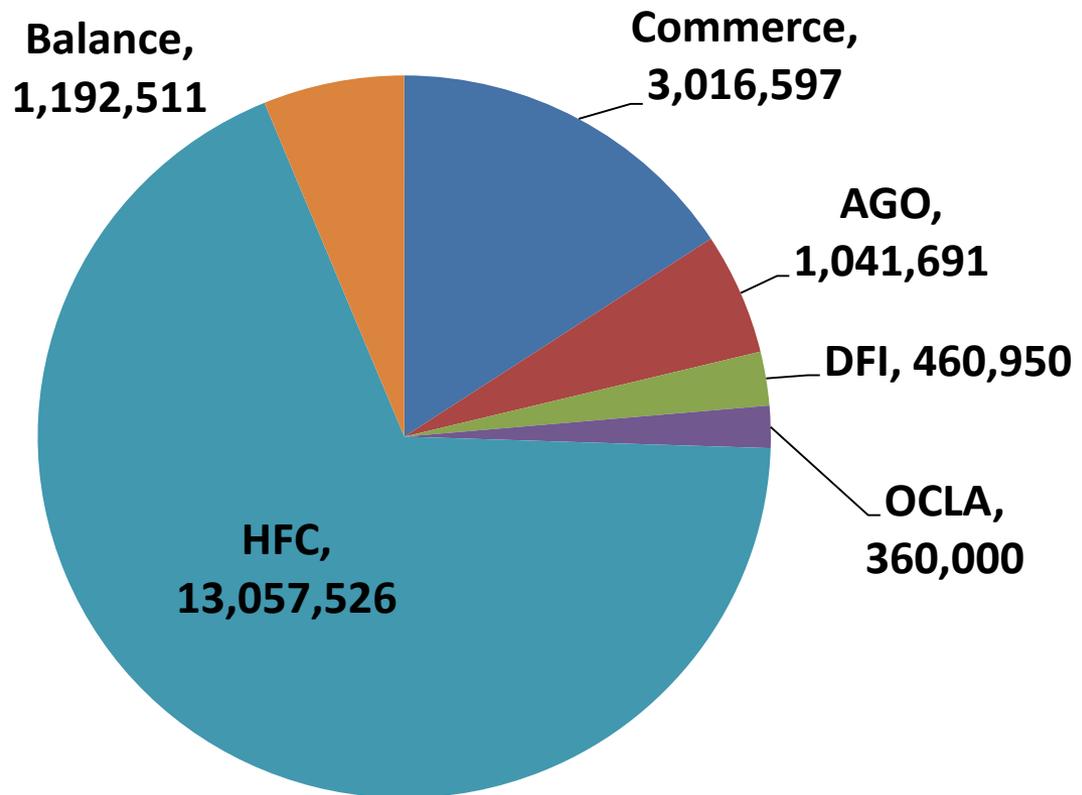
Revenue Received						
	Bien 11-13	Bien 13-15	FY 12	FY 13	FY 14	FY 15
Jul-Sep	\$ 3,184,326	\$ 2,358,500	\$ 1,720,200	\$ 1,464,126	\$ 1,425,000	\$ 933,500
Oct-Dec	\$ 2,308,124	\$ 1,343,835	\$ 692,000	\$ 1,616,124	\$ 861,585	\$ 482,250
Jan-Mar	\$ 1,710,075	\$ 1,475,415	\$ 510,250	\$ 1,199,825	\$ 909,665	\$ 565,750
Apr-Jun	\$ 2,657,750	\$ 1,650,500	\$ 560,000	\$ 2,097,750	\$ 916,500	\$ 734,000
Total	\$ 9,860,275	\$ 6,828,250	\$ 3,482,450	\$ 6,377,825	\$ 4,112,750	\$ 2,715,500



Foreclosure Fairness Fund Distribution

\$17.6 Million Expended

- HFC**
Housing Finance
Commission
- AGO**
Attorney General
Office
- DFI**
Dept. of Financial
Institutions
- OCLA**
Office of Civil Legal
Aid



Expenditures from the Foreclosure Fairness Account are made in compliance with RCW 61.24.172.

Data as of September 30, 2015



Forecasted Future State of the Program

Forecasting suggests that the new industry “normal” will be **approx. 10,000 NOD’s** issued per year.

It’s been estimated that approx. **20-30% of the NOD’s are exempt** from paying the \$250 FFA fee.

Assuming 8,000 NOD’s are required to pay fees each fiscal year, the future program funding could level out around **\$4 million per biennium.**



Foreclosure Fairness Funding Allocation

Statutory requirements (RCW 61.24.172)

Housing Finance Commission	No less than 71%, except to pay for AGO & Commerce
Dept. of Commerce	Up to 18% or \$1,400,000 per biennium, whichever is greater
Attorney General Office	Up to 6% or \$655,000 per biennium, whichever is greater
Dept. of Financial Institutions	Up to 3%
Office of Civil Legal Aid	Up to 2%



Foreclosure Fairness Expenditures

Current Funding Structure			
	Amount	Actual %	RCW %
HFC	\$ 1,817,039	45.4%	71.0%
COM	\$ 1,400,000	35.0%	18.0%
AGO	\$ 655,000	16.4%	6.0%
DFI	\$ 76,776	1.9%	3.0%
OCLA	\$ 51,184	1.3%	2.0%
Total	\$ 4,000,000	100.0%	100.0%



Foreclosure Fairness Expenditures

Expenditures						
	Bien 11-13	Bien 13-15	FY 12	FY 13	FY 14	FY 15
HFC	\$ 6,466,011	\$ 6,321,547	\$ 2,479,401	\$ 3,986,610	\$ 3,363,570	\$ 2,957,977
COM	\$ 1,428,901	\$ 1,406,294	\$ 670,809	\$ 758,092	\$ 818,414	\$ 587,879
AGO	\$ 470,635	\$ 540,210	\$ 221,763	\$ 248,872	\$ 301,469	\$ 238,741
DFI	\$ 125,325	\$ 306,169	\$ 118,189	\$ 7,136	\$ 163,207	\$ 142,962
OCLA	\$ 198,932	\$ 161,068	\$ 110,000	\$ 88,932	\$ 101,068	\$ 60,000
Total	\$ 8,689,805	\$ 8,735,287	\$ 3,600,163	\$ 5,089,642	\$ 4,747,728	\$ 3,987,560

% Of Total Spending						
	Bien 11-13	Bien 13-15	FY 12	FY 13	FY 14	FY 15
HFC	74.4%	72.4%	68.9%	78.3%	70.8%	74.2%
COM	16.4%	16.1%	18.6%	14.9%	17.2%	14.7%
AGO	5.4%	6.2%	6.2%	4.9%	6.3%	6.0%
DFI	1.4%	3.5%	3.3%	0.1%	3.4%	3.6%
OCLA	2.3%	1.8%	3.1%	1.7%	2.1%	1.5%



Program Sustainability and Funding Discussion

1. Adjust the program to fit the revenue:

- What is the appropriate program size?
- What are the priorities of the program?
- What are the essential functions of the program?
- Are changes needed to the allocation methodology?

2. Increase the revenue to ensure FFA services continue:

- Are there other funding sources?
- Could there be changes to the current fee structure?
- Should the fee requirements be universal?



Mediator Fees

Mediators were surveyed in Sep. 2015:

- 70% said the current fees structure is rarely or never enough to cover their costs and compensate for their time
- 43% spend 5-8 hours per session, and 36% spend 9+ hours per session, *on average*
- 65% had an *average* of 1-2 sessions per case
- 88% think there should be an increase in session fee (most popular amount was \$600)
- Most charge a rescheduling fee (the majority between \$50 and \$200)

Date source: “Foreclosure Fairness Act Mediator Fees” survey, Sept. 2015 (45 responses received)—see survey results on the [program website](#)



Mediator Fees – Discussion

1. Should there be a mediator fee increase?
2. What should the amount be?
3. Should there be the same fee for any subsequent sessions?
4. Should we standardize the re-scheduling practices?



Break

Please return to your seats in 10 minutes



Beyond Foreclosure and the Trustee Sale



Discussion with Rep. Tina Orwall and
Briahna Murray, Gordon Thomas Honeywell
Governmental Affairs



Conclusion



- Other topics
- Q&A
- Next steps
- Closing remarks



For More Information



Foreclosure Fairness Program

www.commerce.wa.gov/foreclosures

ForeclosureMediation@commerce.wa.gov

(360) 725-3040

