Washington State’s Foreclosure Fairness Act:
A second try at a fair, clearly defined and enforceable process for homeowners facing foreclosure

Governor Gregoire signed the Foreclosure Fairness Act (FFA)—Second Substitute House Bill 1362—into law on April 14th, 2011. Getting this Act into a final form that all parties could agree on required many meetings, hard negotiations, significant compromise and line-by-line lawmaking. Many people participated in the process including legislators, affordable housing advocates, financial institutions, homeowners, attorneys, housing counselors, and state officials.

For this issue of My View, I’ve spoken with many of the people who were integral to the passage of this legislation. They’ll share their perspectives on what they were looking to achieve, and what they think the impact of the FFA will be. Now, we all have a huge task ahead of us: getting the word out about the new provisions of the Act that take effect on July 22. Hopefully, working together, homeowners in crisis and their lenders will have more time and more opportunities to avoid foreclosure and achieve a fair resolution in a timely manner.
The new Foreclosure Fairness Act (FFA) is far-reaching and well worth the effort it took to move it through the legislature. In a major contribution to increase funding, the banks voluntarily came forward to provide a source of money to pay for the certified housing counseling that all agree is integral to solving the current foreclosure morass. And, after working through several versions, we now have a law on the books that provides more time for homeowners facing default or foreclosure to meet and confer with their lender and, if necessary, participate in mediation to get a timely and even-handed hearing. The FFA also has “teeth”: It provides for clear-cut expectations and timelines, along with penalties and other consequences for those who don’t comply with the law. The chart on the following page spells out many of the key provisions.

Rep. Tina Orwall, the prime sponsor of this legislation in the House, describes it this way: “It creates a very fair, transparent process. That’s important for homeowners. I believe we’ve improved the system for foreclosures in our state.”
Timeline for Washington State’s Foreclosure Mediation Program

| STEP 1 | • Lender must notify Homeowner by letter and telephone of the right to a 60-day opportunity to an in-person meeting before Lender records a Notice of Default.  
• The Notice must also indicate the Homeowner’s right to request mediation through a housing counselor or an attorney. Mediation may be requested up until the Notice of Trustee Sale is issued. |
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<td>STEP 2</td>
<td>• Mediation is requested ONLY by a housing counselor or attorney sending in a request for mediation to the Department of Commerce. The Homeowner does not have to establish or prove reasons for the request.</td>
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| STEP 3 | • Within 10 days of receiving the request for mediation, the Department will notify all parties that mediation has been requested and select a mediator.  
• The Department will notify the parties of the list of documents that must be provided for the mediation. |
| STEP 4 | • The mediation will be scheduled no later than 45 days after the mediator is selected, unless otherwise agreed;  
• The mediator will set a time, date and place for the mediation 15 days before the mediation session;  
• The Homeowner may be represented by an attorney or other advocate such as a housing counselor;  
• The Lender must have a person with authority to modify the loan or negotiate an agreement either at the mediation or available by telephone. |
| STEP 5 | At least 10 days prior to mediation session:  
• Homeowner shall prepare and exchange with the Lender: a financial statement with current and future income information, debts and obligations, and last 2 years of tax returns.  
• Lender shall prepare and exchange with the Homeowner: loan balance, an itemized list of fees and charges, payment history, net present value and loan modification inputs, and other required documents. |
| STEP 6 | • At the mediation, both the Homeowner and the Lender have an obligation to participate in good faith.  
• The mediator will encourage the parties to examine all issues, including loan modification to avoid foreclosure.  
• Within 7 days after mediation, the mediator shall make a written certification of the results of the mediation and whether the parties participated in good faith. |
| STEP 7 | • The parties either come to an agreement (a loan modification or other alternative) or the parties do not come to an agreement and the foreclosure process will proceed.  
• If the Lender does not mediate in good faith, the Homeowner may enjoin the foreclosure sale in court. |

Prepared by Bruce Neas of Columbia Legal Services. This document was made possible by a grant from the Institute for Foreclosure Legal Assistance.
Discovering what we need

About 32,000 foreclosures were filed in Washington State last year; somewhere between 30,000 and 50,000 are anticipated to occur in 2011. Since the foreclosure crisis began, our state’s leaders have attempted to create laws and put policies in place to protect homeowners, and to establish procedures for foreclosures on deeds of trust that are effective and fair to all parties involved. In two previous issues of My View, April 2008 and July 2009, I explored emerging foreclosure challenges and the responses that were taking shape in the legislature and in communities across the state.

The FFA is the result of both experience and research. By the start of the 2011, all of us in the affordable housing community knew well what wasn’t working in terms of getting timely responses from banks—particularly the large, national banks—to the people who were in default and were making efforts to find a solution.

ESB 5810, passed in 2009, was an attempt to solve the problem. It set out guidelines for what is known as meet and confer. In essence, lenders were charged by ESB 5810 with following very clear guidelines in their dealings with borrowers in default. Among other things, they had been required: to contact the borrower both by phone and mail a set number of times; to advise borrowers that they had the right to request a meeting to discuss possible alternatives to foreclosure; and to schedule this meeting within 14 days. Lenders were also required to provide delinquent borrowers with contact information for a HUD-certified counseling agency.

As virtually everyone now agrees, meet and confer almost never took place. And these guidelines were almost never followed—at least by the large national banks. No penalties for failure to comply

Loans in Foreclosure in Washington

![Graph showing loans in foreclosure from 2007 Q4 to 2010 Q4]
Among the most powerful findings:

- Lenders were generally providing the required toll-free numbers to assist delinquent borrowers to find counselors to avoid foreclosure (the counselor notice requirement). Those borrowers who got the toll-free numbers and contacted housing counselors fared better than those who did not.

- A significant number of lenders were not telling delinquent borrowers that they had the right to a subsequent meeting with the lender’s representative within 14 days to discuss their options to avoid foreclosure (the 14-day meeting notice). More often than not, the lender representatives indicated that they were not aware of their responsibility to inform borrowers they had the right to this subsequent meeting within 14 days or they were unaware that the meeting notice requirement existed.

- In addition, there was no recourse available to borrowers if the meet and confer requirements were not implemented in good faith or if borrowers were subjected to abusive practices.

Clearly, more effective legislative remedies were desperately needed.

“Mediation will hopefully stabilize communities, it will stabilize the homeowner, it will stabilize the lender and the investors—if it gets used as much as we hope it does and as successfully.”

—BRUCE NEAS, COLUMBIA LEGAL SERVICES

(Page 4 Graph) Source: Mortgage Bankers Association, end of quarter. This graph does not include foreclosures that have been completed. It is the inventory of homes that are still active in the foreclosure process at the end of each quarter.
Forcing a conversation

The idea behind *meet and confer* is simple: getting all the parties involved in a conflict to engage in a conversation is crucial to resolution. This has been a major stumbling block for homeowners in default. So many of them, whether working directly with a loan servicer or through a housing counselor or attorney, have been frustrated in their efforts to be heard. This has been the predominant experience of Washington State homeowners. From the November Report:

[Housing] counselors have consistently told us ... they have had serious problems getting timely meetings or telephone conversations scheduled with lenders or their representatives. In fact, the greatest frustration voiced by counselors to us during our review was their frustration at not being able to reliably or consistently communicate with a lender representative to adequately discuss the situation of their client.

“The real point of the FFA is to force a conversation,” says Bruce Neas. Bruce is Legislative Coordinator and Legal Services Attorney for nonprofit Columbia Legal Services and was the chief drafter of the FFA. Bruce believes that there are three key elements in the new Act that are “a significant step in the right direction”: Strengthening the *meet and confer* expectations; providing a *source of funding* for housing counselors; and creating the mechanism for a *mediation process*.

Let’s look at these three important new requirements one at a time:

**Meet and confer**

The FFA “makes the meet and confer process a little more meaningful,” Bruce says. “Homeowners must understand that they can, if they act within 30 days, get an automatic 60-day workout period with their lender to see whether the foreclosure can be avoided. This is a pre-foreclosure opportunity.” As with so many of those who supported passage of the FFA, Bruce is hopeful that banks will be willing to come to the table earlier in the default process so they can avoid the legwork and additional expenses posed by the mediation process.

**Source of funding for housing counseling**

For every owner-occupied residential home for which a default notice has been issued, banks are required to contribute $250 to the Foreclosure Fairness Account overseen by the Department of Commerce. This applies only to banks that have issued at least 250 notices of default in the previous year (e.g., the large, national banks). At least 80% of these monies must be used to fund housing counseling for borrowers. Says Bruce, “This will help to take care of one of the big debacles in this crisis—the lack of housing counselors. It has been just amazing to me that we have
Mediation

Mediation is the new tool now available to homeowners that can be triggered by their housing counselor or attorney. The mediation session, overseen by a neutral, third-party mediator, forces all parties to come to the table to make a good-faith determination on whether a foreclosure can be avoided.

“In looking at the research,” Bruce says, “mediation programs, which are relatively new, have proven in some states and some jurisdictions to be very useful—very significant—in avoiding foreclosures.” In a non-judicial state like Washington, where you’re not required to go to court to foreclose on a property, he explains, “it was the perfect solution: Requiring a third party to actually meet with the parties involved.”

The mediator’s role is to determine whether all parties acted in good faith. “And that’s defined very stringently by the statute,” he says. “It’s about bringing the right documents, coming to the meeting, bringing someone with authority—all objective facts. So a mediator can say: ‘This happened or didn’t happen.’”

For Bruce, the essence of the mediation conversation should be: “Lender, if you’re not going to do any better at a foreclosure sale than you would doing a loan modification with this homeowner, you should be encouraged to do the loan modification. Especially in the current situation where so many homes are underwater. You should be looking at principal reductions, looking at extending the loan, looking at the borrower’s situation to see if they can recover enough. The point is to have a conversation with people who can make a decision about what’s really fair in each situation.”

As envisioned by Bruce and other crafters of this legislation, mediation “will hopefully stabilize communities, it will stabilize the homeowner, it will stabilize the lender and the investors—if it gets used as much as we hope it does and as successfully.”

Adds Senator Adam Kline, the FFA’s chief champion in the Senate in Olympia and a long-time advocate for fair foreclosure practices, “The FFA helps level the playing field between individual homeowners, mortgage borrowers and the banks or mortgage companies that lent the money. Given the endemic foreclosures that we’re going through, it helps to have some power put back in the hands of ordinary people against the banks and the big mortgage companies.

“This gives banks something to think about before they file for foreclosure in the first place. They may want to look seriously at the likelihood of giving a modification to the homeowner before they foreclose, rather than going through this process.”
Bringing certainty to the process

In the numerous stories told by distressed homeowners testifying to their legislators this past session, one of the defining themes was the uncertainty of the modification process: The frustration of being left hanging, waiting for resolutions—for months, sometimes for much more than a year.

Lili Sotelo is Director of the Home Foreclosure Legal Aid Project, a partnership with the Northwest Justice Project funded primarily through the Legal Services Corporation. Lili represents homeowners in foreclosure-related cases, and oversees the work of attorneys who volunteer to take on pro bono cases for homeowners through the Project. She also worked with Bruce to provide legal input on the language of the FFA. Currently, she reports, more than 500 attorneys in our state have signed up to take on pro bono cases to represent homeowners.

In her own and fellow attorneys’ work in representing homeowners, she describes, housing counselors frequently referred homeowners if “the homeowner had come to a brick wall and there was no way around that wall without legal intervention. Sometimes it was because they could not get a straight answer from the servicer in terms of getting a permanent modification, sometimes the servicer would repeatedly lose the paperwork and claim never to have spoken with the homeowner. Although many times there was evidence to the contrary! And when we had attorneys help the homeowner to try to accomplish the same thing, they would experience that same level of frustration and stonewalling—and lack of a coherent or a predictable procedure.”

Lili is hopeful that the FFA will bring to the foreclosure process “Certainty, transparency, and oversight. Previously,” she says, “part of the problem was that homeowners and the attorneys who represented them would speak to a different person every time in some unknown place who had access to limited files. And so it was very difficult to get an answer. But the Act requires a good-faith effort at mediation. It requires a lender representative, with authority to make a decision, to be present during the mediation. Whether or not there is a resolution to be reached, everyone’s trying to reach it and not playing games.

“And there’s a timeframe,” Lili adds. “Most people would rather have a six-month period where they know at the end of a mediation what’s going to happen—rather than two years of a temporary modification. It’s this sense of hope that... people are just holding onto, and they would like to know what to do with the rest of their lives: Do they move on, do they stay, what’s going to happen? It’s very difficult emotionally for people to deal with that uncertainty. And the mediation brings certainty to the process.”
Monitoring the Act to see how it’s rolling out

Danielle Friedman, Public Policy Coordinator with the statewide Poverty Action Network, has been coordinating efforts to change our state’s foreclosure processes to better serve the needs of low-income borrowers for several years. During the session, she was an assiduous advocate for what she saw as key provisions of the Act—and helped frustrated homeowners get to Olympia to testify and to meet individually with their legislators.

“Homeowners have been having a very hard time getting in touch with lenders, they were getting transferred, getting wrong information, having to send in their paperwork 12 or 15 times,” she describes. “People were outraged, but they didn’t have the outlets for being heard.”

Danielle’s work on foreclosure issues originally arose out of Poverty Action’s focus on creating broad financial protections for low-income people. Poverty Action is part of a large coalition of close to 100 organizations across the state, the Alliance to Prevent Predatory Lending, that has been battling predatory lending practices. After the 2009 session and the passage of ESB 5810, Alliance members agreed that more stringent legislation was needed to help distressed homeowners, many of whom had been the victims of predatory mortgage lending. “We started looking at what policies were working, and it seemed like foreclosure mediation, with some real teeth in it, would be something that could help homeowners,” she says. She and the Alliance rolled up their sleeves and have been working to get attention for this issue ever since.

Danielle’s chief concern about the FFA is the triggering mechanism required to initiate the mediation process. Washington State is the only state with mediation that does not permit the homeowner to trigger the mediation process. Only a housing counselor or attorney working with the homeowner can do so. “That was not our original idea,” says Danielle. “We hope that people are going to know that it’s their right to ask for mediation through their representative. And we plan to monitor how that’s going to work.

“We’ll be observing how it’s rolling out: Staying in touch with people who are in the foreclosure process right now, seeing if they’re having trouble accessing the program, what their experience is with it. If there are elements that need to be tweaked, we’ll be going back next session and talking to lawmakers about making it stronger or changing things that need to be changed. We’ll definitely still be involved throughout the implementation.”

Right now Danielle and the Alliance are focused on publicizing the new rights granted to homeowners by the FFA. “It’s very important for us to be getting the word out. These are policies that could make a difference in people’s lives. And we think the FFA is going to help many homeowners. The key to this is having some accountability on the part of the banks: Having standards that the banks have to live up to.”

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The Banks: Housing counseling is a critical part of the solution

Throughout the negotiation process to craft the FFA, Denny Eliason was the lobbyist who represented the interests of the Washington Bankers Association (WBA). The WBA represents both large and small banks—more than 95% of all banks doing business in the state. Denny has worked with the WBA for more than a decade, and brought much good will and willingness to listen and present reasonable responses on the part of the banks. Tina Orwall puts it this way: “Denny was a leader in this. He needed to persuade his industry to make compromises and I certainly applaud his efforts.”

As the foreclosure crisis deepened in our state, it became clear that the large, national banks with out-of-state servicers were overwhelmed with the volume of borrowers trying to reach them and work out solutions. “When I introduced the legislation this year,” Tina says, “I insisted that we waive the small banks. I did that because when I talked with counselors or met with banks, I kept hearing over and over that the smaller community banks were meeting with people face to face and had a very small percentage of foreclosures. So we really wanted to focus this legislation where we were seeing the most issues.”

And that’s truly what the FFA accomplishes. It’s only the banks that were involved in more than 250 trustee sales of (foreclosures on) owner-occupied residential homes in Washington State in the last calendar year that have to comply with the mediation program. And as I mentioned already, it’s these same big banks that are required to pay in $250 per default into the fund for housing counseling.

Denny affirms that the banks are big believers in the efficacy of housing counseling. To that end, they voluntarily added the $250-per-notice-of-default fee to the FFA’s language, to ensure that counseling will be adequately funded from now on. “We are encouraged by the way the bill ultimately concluded and was signed by the Governor,” Denny says. “This Act would not have happened without the active involvement of the Commission. We do believe that the
focus of the bill is on housing counseling, and getting borrowers who are facing foreclosure the resources they need to work with their financial institution. We believe that housing counselors are the lynchpin of that strategy. 

“What we’ve found around the country,” he continues, “is that if you can get a consumer to a housing counselor, it goes better for them — and for the bank. What housing counseling can do are two very important things from a bank’s perspective. One, it helps borrowers get their financial affairs in order and organized. And the second thing it does is provide an independent person that works on behalf of the borrower. They can say to the borrower: ‘The best course of action for you in the real world, is to go with x or y.’ Be it a loan mod or short sale, when the advice comes from the bank, they’re more guarded. When it comes from their counselor, it can really help the process.” 

One concession made to the banks during the mediation process was that, during mediation, a decision maker from the bank needn’t be present in person. “It’s really most efficient in the vast majority of cases,” Denny explains, “to access that person on the phone, so they can be in front of their computers and processes so mediation runs efficiently and people can get an answer in real time.” 

Ultimately, he points out, the banks want fair resolution just like everyone else. “In the 40,000-foot scheme as it relates to foreclosure,” Denny concludes, “you have to have a process that works. Otherwise you have too much risk within the lending equation. That will ultimately affect the pricing of mortgages. So everyone had an interest in making sure that the process can work.”
The housing market’s not yet out of the woods

Denny’s last point is an important one. The objective of the FFA is to set the stage for solutions that will work for both banks and homeowners. We need healthy financing institutions to continue to be able to provide affordable financing for homebuyers. It’s a matter of balance: To get our housing markets stabilized, first-time homebuyers and other purchasers of residential real estate need to be able to access affordable home loans. They also need to trust that they will not be buying a home that will decrease in value in the coming years; hence, the urgent need for stabilized markets. Which in turn require a healthy, stable financing system.

Right now, it appears as though we still have a way to go to seeing stabilization in our housing markets.

Glenn Crellin, based in Pullman, is the Director of the Washington Center for Real Estate Research. I asked him what facts he has at his disposal to indicate when Washington State might see a housing market turnaround. “What we have gone through is a horrendous experience,” he says. “We’re at the very beginning of seeing the turn, but it’ll take a long time before we get back to normal.”

Here are his specifics, based on the most recent data available (end of 4th quarter 2010): “For the State of Washington, the serious delinquency rate, which is those properties that are pre-foreclosure—at least 90 days past due, but may not have entered the foreclosure process—plus those that are part of the foreclosure inventory, was continuing to rise modestly.” The good news is that the change in that rate over the course of 2010 was extremely gradual. “I expect that number is going to start declining,” he says.

What’s not declining yet is the inventory of properties that are in the foreclosure process. In other words, we’re beginning to see a reduction in terms of new properties under distress, but those that are in the system are still there. “That’s because,” explains Glenn, “the duration of the time elapsed between the beginning of the foreclosure process and the property becoming real-estate owned on the part of the financial institution has stretched out incredibly.”

The pace of foreclosure has slowed dramatically, not just here, but across the U.S. “And here, that’s going to slow even further under the FFA. By and large,” he says, “I think that’s a good thing. If we can keep more of those households in their properties, the whole market is going to be much better off.”

About the new legislation, Glenn says, “Forcing the lenders and servicers and the borrowers to communicate more openly and to look for ways to try to modify some of those loans in hopes of keeping them current—I certainly hope it can work. We need stability to re-enter the process. The statistics that were released recently by Northwest MLS highlight the fact that the market is still struggling.”

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GLENN CRELLIN
Director, Washington Center for Real Estate Research

WASHINGON STATE’S FORECLOSURE FAIRNESS ACT • JUNE 2011
New, effective tools for housing counselors

As Regional Manager, Community Development with the Seattle Branch of the Federal Reserve Bank of San Francisco, Craig Nolte works across a five-state territory to seek out systemic problems in our regional economy. His role includes bringing communities together to problem solve on economic challenges. In recent years, Craig has spent a lot of time crisscrossing the region to help communities create responses to the foreclosure crisis by, among other things, promoting public education, sponsoring trainings for housing counselors, and sponsoring borrower events for distressed homeowners to meet with bank servicers.

From his talks with housing counselors, Craig is beginning to see some positives emerging. “Overall, he says, “the level of communication between banks and housing counselors is just getting better.” He points to the relatively new HOPE LoanPort, an Internet-based software tool that facilitates communications between the housing counselors and the banks, as a key part of this. When counselors can make use of this tool—when a bank makes this an option—they are having more success in getting answers. One of the benefits of this portal is that it enables counselors to submit documents on behalf of the distressed borrowers—and it gives them a tracking number for documenting and following up on those submissions.

But, as Craig says, these tools like HOPE LoanPort and borrower events that can help distressed borrowers are meaningless “if we can’t reach them in time.” Craig has been looking at “other ways to reach these distressed borrowers” with the help of his organization. He adds that there still remains a lot of confusion and misinformation regarding whether distressed borrowers should still be making their mortgage payments. Craig emphasizes: “It’s to the borrower’s detriment if they start skipping payments because it makes them ineligible for certain programs.”

“Overall, the level of communication between banks and housing counselors is just getting better.”

CRAIG NOLTE
Regional Manager, Community Development
Seattle Branch, Federal Reserve Bank of San Francisco
Housing Counseling: The view from the trenches

Here at the Commission, we enjoy a direct relationship with our state’s housing counselors. We are the administrators of the state dollars, along with a portion of the federal dollars, allocated for foreclosure counseling. We have seen the successes housing counseling achieves in our state, year after year. Just as an example, our sub-grantee agencies assisted 2,210 households in the last 12 months. Out of this number, 2,159 avoided foreclosure.

We also know well how hard foreclosure counselors work to help homeowners achieve these successes. I wanted to share some of their perspectives on the FFA, and how it might impact their organizations and the people they counsel.

I’ll begin with Alex Kamaunu, who is Executive Director of Family Finance Resource Center (FFRC) in Longview. Alex’s was a strong voice in Olympia during the hearings on the FFA, and this is what he says about the result: “I think the FFA is a victory. It also shows that this state is serious about foreclosures. All we’re trying to do is create a solution. That’s what mediation really is, a communication solution.” For Alex, a very important part of that solution is having the banks “capitalize the homeowner counseling fund.”

Ultimately, Alex believes, even more critical is the notice served by the FFA: “Lenders, when they look at Washington State, will know that mediation is here. I think when lenders look at this, they’re going to work at a more diligent pace with our homeowners who are reaching out to these larger lenders—so they don’t have to go to mediation. It puts us on the radar. That’s what I hope comes out of it, that the lenders will be motivated to open up their communications.”

Alex was a mortgage broker in Las Vegas for a decade before moving to Longview to lead FFRC in 2007, and he certainly understands the challenges facing both sides of the lender/borrower paradigm. He acknowledges how critical the role of counseling is—to both parties involved. “The lenders and their interests—everyone spoke on behalf of how valuable counseling agencies are. Because we are truly the homeowner’s advocate. But,” he adds, “we also demand reasonable expectations. If someone doesn’t have the ability to pay their mortgage, their options are severely limited. We have to perform due diligence, and be the ones who deliver that message, too.”

Yvonne Sengler, Housing Counselor with Consumer Credit Counseling Service of Tri-Cities (CCCS), agrees. “At times,” she says, “there’s an assumption that housing counselors are only looking at cases from the homeowner’s perspective. Financial advocates are very aware that the bank needs to make its money and that we cannot save every house that comes through our doors. We do make it about the numbers. And we can give people an advocate who understands their circumstances, but we also give them a perspective that if the loan doesn’t

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— ALEX KAMAUNU

ALEX KAMAUNU
Executive Director, Family Finance Resource Center, Longview
Linda Taylor, Housing Director at Urban League of Metropolitan Seattle (ULMS), sees yet another positive to come out of the new legislation. "I think it will do something that I didn’t expect it to do, and that’s encourage more banks to open service centers and add additional people on the local level to look at loans so they can solve these issues before they get to mediation,” she says. She points to a big bank’s recently opened service center in downtown Seattle, whose staffing includes a decision maker, something that would have been unheard of even a year ago. “I expect the larger banks to open up more service centers with more of their counselors and decision makers available in them,” Linda says. “These service centers are proving to be very helpful to housing counselors in resolving documentation issues.”

As the funding comes in from these big banks through the Foreclosure Fairness Account to help support expanding their counseling operations, all three of these agencies are ready and willing to expand their staffing. One great challenge is the training and expertise required. In the case of ULMS, Linda says, she’s “poised to do it.” She can bring back some counselors who were previously laid off due to lack of funding. In the Tri-Cities, Yvonne has been seeing about 10 new cases a month, in a relatively stable housing market. Recent layoffs in the area may change that picture; “if our economy continues to slide, we’ll be seeing a need for more counselors,” Yvonne says.

Alex and FFRC have been building up capacity internally. “Getting up to speed is a risk that I’ve presented to our board,” he says. His organization doesn’t have the ability to hire additional personnel until they receive the new funding. But they currently have part-time staff members who are already assisting counselors. These staffers can go through the formal counselor training offered by NeighborWorks. “Once we receive the monies from the state, two of them can potentially go full-time. We’re just not sure yet what the demand will be.”

Alex closes by passing along “congratulations—to Washington State leadership, and to Representative Orwall and Senator Kline for being the champions and taking this forward. These stronger protections will help keep families in their homes, and everything that goes with that. It will help prevent families from being displaced. Keeping them within the state will help the economy, and help the municipal tax base. And it is forward thinking. We are one of only three of 27 non-judicial states that has mediation. We owe it to state leadership that they pushed this forward. And the lenders did oblige because they understand that we’re trying to help them as well.”

**YVONNE FENGLER**
Housing Counselor, Consumer Credit Counseling Service of the Tri-Cities

**LINDA TAYLOR**
Housing Director, Urban League of Metropolitan Seattle
Implementing and publicizing these new homeowner rights

As I alluded to already, creating this new legislation was not an easy process. I want to give credit to all parties involved, in sticking with this effort and finding a way to come to agreement on the final version. The outcome was indeed a victory for all of us. Among the very many people who played an important role in its passage, I would like to particularly single out Rep. Tina Orwall, Senator Adam Kline, Bruce Neas, Denny Eliason, and Danielle Friedman.

Tina puts it this way: “I really appreciate that everyone did come to the table. It was difficult; it was uncomfortable. Everyone had to compromise, and that’s how we got to a good place with the Act. We all learned a lot along the way.”

There is still so much to be done. Many of our state agencies, banks and nonprofits are in the process of formalizing compliance. Forms must be created; banks are exploring how the new legislation will alter their guidelines. Commerce is currently receiving contributions from the banks to the Foreclosure Fairness Account; the common estimate places that number at approximately $7.5 million for the first year. Although the bulk of this will go to fund housing counseling, other portions have been allocated to the AG’s office for enforcement; to the office of civil legal aid for legal representation for homeowners; to Commerce for implementation of the Act; and to DFI to conduct outreach, advertising and education programs for homeowners.

The 18 agencies in our state that offer housing counseling have the most daunting task of all. We need to drastically increase the number of counselors. This can’t be done without their commitment to hiring new counselors, ramping up support staff, and providing substantial training.

There are many details to work out about how the mediation process will be set up and what happens during mediation. Thorough training will be needed; mediators must be able to understand highly complex home financing numbers. Establishing this training is well underway. Commerce is charged by the Act with recruiting these mediators and ensuring they get what they need. As Bruce Neas points out, “We don’t yet have one experienced foreclosure mediator in the state. Hopefully we’ll have a lot more than that in a year’s time.”

Also, we must be vigilant to root-out and expose scammers of distressed homeowners. DFI’s role will be critical. We must ensure that every homeowner in distress knows about the rights the FFA makes available to them. But DFI can’t do this alone. Let’s get the word out.

The best first step for homeowners who need assistance is to call the Washington Homeownership Information Hotline: 1-877-894-HOME (4663). By calling this number, they can be connected with a housing counselor, get help in understanding their options, and become eligible to participate in mediation.

Thanks again to everyone who contributed their voices and energies to the passage of the Foreclosure Fairness Act. If we can now publicize it effectively, it’s going to make all the difference.