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**Red Flags Rule Delayed (Again)**

Once again, the Federal Trade Commission (FTC) is delaying enforcement of the so-called "Red Flags" Rule through December 31, 2010. The Rule has been controversial from the beginning. The Rule was developed under the Fair and Accurate Credit Transactions Act, in which Congress directed the FTC and other agencies to develop regulations requiring "creditors" and "financial institutions" to address the risk of identity theft. The resulting Red Flags Rule requires all such entities that have covered accounts to develop and implement written identity theft prevention programs to help identify, detect, and respond to patterns, practices, or specific activities - known as "red flags" - that could indicate identity theft. The definitions seem to cover most everybody including a lot of retailers and consumer service providers.

The Rule became effective on January 1, 2008, with full compliance for all covered entities originally required by November 1, 2008. The FTC has delayed the effective date



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several times now. The impression is the FTC has been hoping Congress would save it from itself. FTC in announcing the new delay: "The Commission urges Congress to act quickly to pass legislation that will resolve any questions as to which entities are covered by the Rule and obviate the need for further enforcement delays." [Please click here to view the FTC's press release.](#)

## Home Star Reintroduced in the Senate

Senator Jeff Bingaman (D-NM) introduced revised Home Star legislation last week in the Senate (S. 3434), with fifteen cosponsors including Republicans Olympia Snowe (R-ME), Lindsey Graham (R-SC) and Scott Brown (R-MA). The bill adopts some of the changes made in the House, including accelerated rebate reimbursement. It also creates a new tax credit for performance-based energy efficiency improvements, adding a Section 25E to the Internal Revenue Code that allows homeowners to deduct up to 50% of the cost or \$8000 for a "qualified" whole home energy retrofit conducted by a BPI-accredited contractor. Because of the tax provisions, the bill is still referred to the Senate Finance Committee. It remains unclear how quickly the Senate will take up the legislation. It is also not yet clear if the sponsors have identified funding to pay for the program.

NLBMDA members with questions should contact Colleen Levine at [colleen@dealer.org](mailto:colleen@dealer.org) or Jeremy Stine at [jeremy@dealer.org](mailto:jeremy@dealer.org).

## Tax Extenders Bill Passes House; More Changes Expected

Prior to leaving town for the Memorial Day recess, the House passed the "American Jobs and Closing Tax Loopholes Act (H.R. 4213) by a vote of 215-204. In an effort to appease Blue Dog Democrats who objected to the large amount of non-offset spending, it was pared down to a mere \$110 billion package after an extension of COBRA subsidies and Medicaid assistance to states were removed. The package still contained several provisions of interest to the building supply industry: a one-year extension of accelerated depreciation for retail store improvements, the research and development tax credit, and the new energy efficient home tax credit. Those credits had expired at the end of 2009. It also adopts changes to the window, door and skylight tax credit to allow all EnergyStar products to qualify for the remainder of 2010. One of the revenue offsets is a provision requiring professional services S-Corporation shareholder to report income as wages. While this more narrow

provision is targeted at only a small subset of S-Corporation businesses, it is still a concerning step towards increased taxation of small businesses organized as such. Senate Democrats are likely to seek more changes when they again take up the bill following the recess.

## **Building Star Legislation Introduced in the House**

Last week a commercial and multi-family version of Home Star called "Building Star" was introduced in the House by Rep. Peter Welch (D-VT), with seven Democratic cosponsors: Reps. Melissa Bean (D-IL), Russ Carnahan (D-MO), Chris Van Hollen (D-MD), Jerry McNerney (D-CA), Steve Israel (D-NY), Ted Deutch (D-FL) and Anthony Weiner (D-NY). The "Building Star Energy Efficiency Act" (H.R. 5476) provides financial incentives to owners of commercial and multi-family buildings who undertake energy efficiency retrofits. Unfortunately, the legislation requires that contractors performing work under Building Star be paid in accordance with Davis-Bacon prevailing wages. Prevailing wage requirements have been an impediment to the Department of Energy weatherization program that was included as part of last year's stimulus legislation. As with Home Star, Building Star proponents are seeking \$6 billion in funding. Companion legislation had previously been introduced in the Senate (S.3079), but has not yet been considered by the Senate Energy Committee.

## **Senate Votes on EPA Lead Rule Amendment**

Last week, as part of consideration of the emergency supplemental appropriations bill, the Senate approved an amendment (60-37 vote) by Sen. Susan Collins (R-ME) that would prevent EPA funding for the imposition of fines and liability under the EPA Lead Rule. As you know, NLBMDA has been pursuing a variety of avenues to minimize the impact of the rule on the industry. Sen. Collins specifically noted NLBMDA efforts on the floor of the Senate. However, during the course of consideration to make the amendment germane (relevant to the bill at hand in order to take a vote on) to the bill on the Senate floor, the amendment was modified so that it only barred funding from this particular supplemental appropriations bill, which did not contain EPA funding, therefore making the vote largely symbolic. Despite the symbolic vote, 60 Senators voting for this amendment will provide NLBMDA and other organizations momentum in modifying the rule.

Please [click here](#) to view the vote on the Collins amendment.

## **Credit Card Fees Subject of Debate in Financial Services Reform Legislation**

As we reported in the last e-update, the Senate adopted an amendment during consideration of the Wall Street Reform and Consumer Protection Act (H.R. 4173) that would place new restrictions on fees that credit card companies charge merchants, and requires the Federal Reserve to regulate whether swipe fees for debit cards are "reasonable and proportional." While the overhaul bill passed the Senate on May 20, the amended version must go back to the House for reconciliation. The banking industry now has the support of some state treasurers in fighting these new requirements over concerns that they could add additional costs and burdens to their state benefit programs that provide prepaid cards to recipients. The House and Senate are expected to reconcile the legislation before the next recess, July 4.

## **Supply Star Act Introduced in Senate to Increase Efficiencies in Supply Chains**

Four senators introduced a bill last week designed to increase energy efficiencies in supply chains. Senators Jeff Bingaman (D-NM), Scott Brown (R-MA), Blanche Lincoln (D-AR) and Mark Pryor (D-AR) worked together on the Supply Star Act of 2010, which will primarily affect small and medium-sized businesses. The Supply Star Act of 2010 would establish a Supply Star Program within the Department of Energy that builds on the Energy Star Program, as well as existing best practices in industry and the U.S. and international research communities to give companies access to the resources and information they need to successfully drive supply chain efficiency improvements.

The Supply Star Program aims to provide companies with financing, technical support, training, and sector-wide networks to help significantly improve their supply chain efficiency. The program would also provide public recognition to those businesses that achieve the highest supply chain efficiency standards, rewarding them with a marketing tool that will help consumers make informed purchasing decisions.

## **Support the LBM Industry in Washington...Contribute to the NLBMDA Legislative Action Fund!**

Can you help support the important work that NLBMDA's

government relations team does on your behalf every day in Washington? NLBMDA will be hosting a silent auction to benefit the [Legislative Action Fund](#) during our upcoming [2010 ProDealer Industry Summit](#) in Orlando, Florida. The Legislative Action Fund provides valuable support for NLBMDA's legislative and regulatory activities on behalf of lumber dealers in Washington. It also helps underwrite the costs associated with running the [Lumber Dealers Political Action Committee \(LuDPAC\)](#), NLBMDA's political fund that helps elect pro-lumber dealer candidates to federal office.

NLBMDA is requesting that all NLBMDA members consider donating an item to the Silent Auction. The Silent Auction is one of NLBMDA's most popular events. Items that have been donated in the past include fine wines, paid vacations to both U.S. and overseas destinations, handcrafted items and original works of art, sporting equipment, electronics, political and sports memorabilia, jewelry, gourmet foods, and the list goes on. The earnings from all auction items donated are reinvested right back to the Legislative Action Fund, so you'll know that the proceeds are being put towards promoting the interests of lumber dealers--*your* interests-- in Washington.

The Legislative Action Fund Silent Auction will take place on October 13, 2010 starting at 7:00 p.m. during the Welcome Reception for the 2010 ProDealer Industry Summit.

To be a part of this exciting event, [kindly fill out this form and submit it to NLBMDA Legislative Action Fund](#) so that we may plan our event accordingly. Thank you in advance for your strong support of NLBMDA and its programs!

## **Lott; Crowe to Headline 2010 ProDealer Industry Summit**

Register now for early-bird savings! Former Senate Majority Leader Trent Lott (R-MS) and National Association of Home Builders Chief Economist Dave Crowe have been confirmed as speakers at the 2010 ProDealer Industry Summit taking place at the Hyatt Grand Cypress Resort in Orlando, FL on October 13-15, 2010.

Lott will be the Summit's keynote speaker on October 13 and will be discussing the critical mid-term elections what will take place less than a month from the Summit. Crowe will be the kick-off speaker on October 14 and will be providing a housing forecast for 2011. Visit [www.prodealer.com](http://www.prodealer.com) for more information and to register.