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NLBMDA's Michael O'Brien Speaking at

NLBMDA President & CEO Michael O'Brien was one of two industry representatives invited to speak at the press conference announcing the House introduction of the Home Star Energy Retrofit Act (H.R. 5019) this past Wednesday. O'Brien joined lead sponsors Reps. Peter Welch (D-VT), Edward Markey (D-MA), Vern Ehlers (R-MI) and Denis Cardoza (D-CA) at the event to highlight the potential impact a Home Star rebate program could provide building material dealers and others in driving consumer purchases to benefit the entire construction supply chain. As part of an effort to ensure an efficient rebate reimbursement process, Rep. Jerry McNerney (D-CA) offered an amendment during the House Energy and Commerce Committee markup Thursday to require rebates to be submitted by the aggregator within 10 days of application, the DOE to direct funds within 10 days, and the aggregator to disburse payment back to the retailer or contractor within another 10 days. The legislation, as amended, cleared the Committee by a vote of 30-17, with two Republicans in support. Other Republicans continue to express concerns about the measure's \$6 billion price tag. It is unclear how quickly the House will move to a final floor vote on the bill, but sponsors are optimistic that it will be considered before July 4.

Please [click here](#) to contact your members of Congress and urge them to support a HOME STAR program that is fair to all dealers. NLBMDA members with questions should contact Colleen Levine at colleen@dealer.org or Jeremy Stine at jeremy@dealer.org.

EPA Lead Rule Update: NLBMDA Continues Efforts to Delay April 22 Implementation; Meets with OMB Today

NLBMDA staff will meet with the Office of Management and Budget (OMB) today for one last attempt at delaying the lead rule (LRRP) and to express our support for maintaining the opt-out provision. OMB must review all pending federal regulations.

In addition, thanks to the efforts of the Ohio Construction Suppliers Association, Rep. Jim Jordan (R-OH) recently wrote a letter to EPA Administrator Lisa Jackson requesting delay of the lead rule. Rep. Jordan's letter can be viewed by [clicking here](#).

NLBMDA would like to thank all of our members for their spirited

efforts to delay EPA's Lead, Renovation, Repair, and Painting rule as well as their efforts to maintain the opt-out provision. We will continue to keep all of our members apprised on EPA's actions especially as it pertains to the opt-out provision.

Louisiana Judge Awards Plaintiffs in Chinese Drywall Suit; CPSC and HUD Release Chinese Drywall Remediation Guidelines

A federal judge in New Orleans has ordered a Chinese manufacturer to pay seven Virginia families a total of \$2.6 million for damages to their homes attributed to drywall problems. The decision is certain to influence pending lawsuits filed by thousands of homeowners around the country whose residences were badly damaged by sulfur-emitting drywall imported from China.

U.S. District Judge Eldon Fallon of the Eastern District of Louisiana apportioned damages to seven Virginia families and is expected to rule again on another case involving a New Orleans homeowner whose post-Katrina residence was badly damaged by Chinese drywall. Another trial is scheduled to begin in early June on behalf of additional homeowners in the Gulf region.

In addition to manufacturers, lawsuits have been brought against a number of firms associated with the faulty drywall, including developers and homebuilders, along with suppliers and distributors. Cases have been brought in both federal and state courts.

The Consumer Products Safety Commission (CPSC) and Department of Housing and Urban Development (HUD) have released guidance for homeowners on what actions should be taken when replacing Chinese drywall. Specifically, they advise that consumers remove all possible problem drywall from their homes, and replace electrical components and wiring, gas service piping, fire suppression sprinkler systems, smoke alarms and carbon monoxide alarms. This guidance is important as a number of builders have already begun remediation work, opening themselves to additional potential liability if remediation work is incomplete. Several lawsuits are already underway as some builders' insurance companies have attempted to avoid payment under "pollution exclusion" clauses. Builders in those cases are also pursuing claims against their subcontractor and suppliers' insurance coverage. To view the remediation

guidance, visit the federal Drywall Information Center website at <http://www.cpsc.gov/info/drywall/guidance0410.pdf>

Labor Secretary Announces New OSHA Enforcement Initiatives

Secretary of Labor Hilda Solis announced a number of major new OSHA enforcement initiatives during her April 14 [keynote address](#) at the National Action Summit for Latino Worker Health and Safety. OSHA currently requires that training provisions under OSHA standards be provided in a language or a form that workers can understand. OSHA further requires that its Compliance Officers check and verify that workers have received the training required by OSHA standards. The Agency will expand upon this and effective on April 28 -- Workers Memorial Day -- Secretary Solis explained, "OSHA will also assure that its Compliance Officers check and verify not only that the training has been provided, but that it was provided in a format that the workers being trained can understand." The Secretary also announced a new pilot program where OSHA will work with local building inspectors to assure worker safety and health protection. In construction, the four leading causes of worker deaths are falls, electrocution, being crushed or caught between and being struck. Inspectors participating in this pilot program will notify OSHA when they observe unsafe work conditions leading to these four major causes of workplace fatalities.

NLBMDA makes its popular "Forklift and You" training kit available in both English and Spanish versions. [Click here](#) to visit the NLBMDA bookstore for ordering information.

Builder Confidence Improves in April

Builder confidence in the market for newly built, single-family homes improved significantly in April as consumers rushed to take advantage of homebuyer tax credits set to expire at the end of the month, according to results of the latest National Association of Home Builders/Wells Fargo Housing Market Index (HMI), released today. The HMI surged four points to 19 in April, its highest level since September of 2009.

Derived from a monthly survey that NAHB has been conducting for more than 20 years, the NAHB/Wells Fargo Housing Market Index gauges builder perceptions of current single-family home sales and sales expectations for the next six months as "good," "fair" or "poor." The survey also asks builders to rate traffic of prospective buyers as "high to very high," "average" or "low to very low." Scores for each component are then used to calculate

a seasonally adjusted index where any number over 50 indicates that more builders view conditions as good than poor do.

The HMI's four-point gain to 19 this month returned it to where it was in September of 2009, just prior to the expiration of the last homebuyer tax credit. The component gauging current sales conditions rose by five points to 20 - the strongest gain in that index since 2003 - while the component gauging traffic of prospective buyers rose a solid four points, to 14. However, the index gauging sales expectations in the next six months registered only a marginal one-point increase to 25, an indication of builders' continued cautious outlook.

The Midwest and South each registered substantial HMI gains in April, rising five points to 15 and four points to 21, respectively. Meanwhile, the Northeast posted no change at 22 and the West dipped two points to 13.

Editor's Note: The NAHB/Wells Fargo Housing Market Index is strictly the product of NAHB Economics, and is not seen or influenced by any outside party prior to being released to the public. HMI tables can be accessed online at: www.nahb.org/hmi. More information on housing statistics is also available at: www.housingeconomics.com.

House Passes Bill that Would Remove Cell Phones from Listed Property Category

On April 14, the House of Representatives by a vote of 399-9 approved H.R. 4994, the "Taxpayer Assistance Act of 2010" (dubbed the "Tax Day Bill" because of the April 15 filing deadline). The bill would eliminate the strict substantiation rules requiring individuals to keep detailed records regarding cell phones and similar equipment used for business purposes by removing cell phones from the definition of listed property. The bill will now be sent to the Senate for consideration.

Under Code Sec. 132, an employee may exclude from gross income the business use of an employer-provided cell phone as a working condition fringe benefit. However, because cell phones are listed property under Code Sec. 280F(d)(4), strict substantiation requirements must be satisfied for business cell phone usage to qualify for the Code Sec. 132 exclusion. Any personal use of an employer-provided cell phone is a taxable fringe benefit. Sec. 101 of the "Taxpayer Assistance Act of 2010" would amend Code Sec. 280F(d)(4) to remove cell phones and similar telecommunications equipment from the definition of listed property, effective for tax years beginning after Dec. 31, 2009.

Support the LBM Industry in

Washington...Contribute to the NLBMDA Legislative Action Fund!

Much has been happening in Washington over the past year and half and NLBMDA is your voice in DC. With an activist agenda that includes such issues as health care, card check, climate change/national energy code, estate tax reform, the EPA Lead Rule, and the OSHA crane rule facing the industry, we must be proactive, vigilant and engaged! At the same time, proposals for the Homestar/Cash for Caulkers consumer rebate program could have a dramatic impact on the LBM dealers over the coming year.

That's why we need your support of the NLBMDA Legislative Action Fund! Unlike LuDPAC, which supports candidates for office, the Fund financially supports the association's national advocacy and grassroots efforts on behalf of the industry and is critical to advancing our [National Policy Agenda](#).

The fund can accept both personal and corporate contributions in any amount that you're able to contribute. Please [click here](#) to make a secure online donation and thank you for your continuing support of NLBMDA!

Lott; Crowe to Headline 2010 ProDealer Industry Summit

Mark your calendars! 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. Stay tuned for more for more information in the coming weeks!