

AWARDEES LAT 2008-09 Dealer of the Year



CALLY COLEMAN FROMME Zarsky Lumber

Cally is Executive Vice President of Zarsky Lumber Co., based in Victoria, Texas. She grew up in Victoria, daughter of LAT past president Dan Coleman and Melba Coleman. She earned her B.A. in Business Administration from Southwestern University in Georgetown, Texas, and prior to returning to her hometown to work at Zarsky Lumber, she managed a variety of retail stores in Austin, Texas and San Francisco, California; and also worked as an Intern for U.S. Congressman Pete Geren of Texas' 12th Congressional District.

Cally served LAT as President in 2004-05, and remains active as LAT's Board Member representative for the National Lumber & Building Materials Dealers Association (NLBMDA) and the Lumber & Building Materials Institute (LBMI), and a NLBMDA Principal Partner 2009, and Chairs the NLBMDA Regulatory, Codes & Standards Committee. She is also a Trustee for LUMPAC (LAT's Political Action Committee), a member (and past president) of the Victoria Rotary Club, and serves on the Stewardship Committee for First United Methodist Church.

In addition, Cally has served her community as a Member of the Executive Council on Construction Supply, a Paul

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LAT 2008-09 Associate Member Representative of the Year



BRENDA ELLIOTT Temple Inland

Brenda is a fifth generation East Texan, native of Sabine County. She joined Temple-Inland 35 years ago in their Retail Operations, the Big Tin Barns, in Advertising and Marketing followed by Purchasing and Operations Management. She transferred to the Sales and Marketing Group for Building Products as Product Manager for Lumber and Plywood and then Marketing Manager, Sales Manager and she is currently Vice President of National Accounts.

Brenda has served on the Marketing committees of the SFPA and APA, and is currently on the NCHI Marketing Committee for NAHB and serves on the Board and Executive Committee for the Lumbermen's Association of Texas.

She is heavily involved in civic work as former Board member and Chairman of the Board for the Angelina County Chamber of Commerce; Board and Chairman of the United Way of Angelina County; Founding Chairman of the Angelina County Economic Development Council and the Stubblefield Learning Center; Advisory member of Vision 20/20 Government Affairs for Angelina County and member of Leadership Texas.

Her charitable activities include current Vice President and Executive Committee of Hospice in the Pines and former President; Executive Officer of the Joe Elliott House; Founding member of the

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LAT 2009-10 President



BOB ASHLEY
West End
Lumber
Houston, Texas

A lifelong Texan, Bob Ashley attended elementary, junior high, high school, and college all

in the same square mile – one block from his home in North Shore - Houston. He was in the first class at San Jacinto College - North Campus in 1975, studying drafting, architecture, and general business.

Bob went to work for Glidden Paint in 1976 as a salesman calling on lumberyards in southeast Texas. After a couple years and some new friendships, he realized he belonged in the lumberyard and went to work for one of his customers – Walker-Kurth in Houston. When Santa Fe closed Walker-Kurth in 1985, he was hired by Olshan Lumber in Houston. After 14 years at Olshan, his career path led to West End Lumber where he works today as Regional Manager with 10 locations and 200 employees.

Bob is a past president of Houston Hoo Hoo Club #23 and was honored as their man of the year in 1994. He also serves on the GHLBMDA (Greater Houston Lumber & Building Material Dealers Assn.) board of directors and is a past president of that organization. Bob is one of the founding board members of the Dan Ledermann Scholarship and serves on that board today.

Bob and his wife Claire live in Cypress (2 miles from their 16 month old granddaughter Jayden). He enjoys running and has participated in 5 marathons, 2 Ultra marathons, dozens of triathlons, and many bicycle events including the Texas Hotter than Hell 100 mile ride in August in Wichita Falls. He finished first in most

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Awardees

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Harris Fellow of Rotary International, a Graduate of Leadership Victoria, a Planning Commissioner for the City of Victoria, a Chairman of the City of Victoria Recycling Education Committee, a Red Coat Ambassador for the Greater Victoria Area Chamber of Commerce, a Board Member for the Victoria Regional Museum Association, Building Committee Chairman for First United Methodist Church, and as a Tutor & Tutor Trainer for the Victoria Adult Literacy Council.

She is married to Travis Fromme, and they have a daughter, Karoline, and a son, Coleman. Her interests include politics, travel, entertaining and event planning, bible study and home improvement.

Member Representative

(continued from page 1)

Boys and Girls Clubs of East Texas; past director of Wilson McKewen Treatment Center, Boys and Girls Club of Lufkin, the Stubblefield Learning Center and as an officer and board member of the Angelina county Humane Society.

She resides in Lufkin, Texas and is a member of First Christian Church. She has two daughters - Alison Elliott of Austin, Texas and Leslie Elliott of Laguna Beach, California, and three Yorkies and one Pomeranian.

Temple-Inland is a Texas-based company with a rich history of producing diverse products to meet customer needs. From its beginnings in 1893 as a single sawmill, today Temple-Inland produces a wide range of building products for the residential and commercial construction markets as well as industrial panels for furniture, cabinets and fixtures. Delivering products that improve and enhance a builder's productivity has earned Temple-Inland a key role in the construction of millions of fine homes across the country. While continuing to develop a wide range of building products, none have played a bigger role in Texas than Temple-Inland's southern pine lumber and studs. Temple-Inland is proud of its 100-year history with the Lumbermen's Association of Texas & Louisiana.

From the President

(continued from page 1)

(if not all) of the past LAT fun runs). Bob admits that he has slowed down a bit since

marrying Claire in 2005, but he still enjoys a 6-mile run or a bicycle ride most every day. He also enjoys building furniture and doing woodworking projects – how appropriate for a lumberman!

**From the LAT President –
Bob Ashley
West End Lumber
Houston, Texas
LAT President 2009-2010**

It's easier to criticize than to do

We've all been critical about how someone else does things, I among them. I'm sure that you know, and have probably learned the hard way, that this is especially true when it comes to leadership. As LAT's volunteer leader for the next twelve – and what we expect to be very challenging – months, I am reminded of some traits that a few famous leaders share.

Leadership

General H. Norman Schwarzkopf said, "Leadership is a combination of strategy and character. If you must be without one, be without the strategy."

As I embark on my year of LAT presidency, I am grateful to those who recognized my character as being worthy to lead our association. Obviously, no one can do it alone – even with the fine and steady staff that we are fortunate to have who run the LAT office on a daily basis. LAT has had hundreds of volunteer leaders over the past 122 years, and we'll require many more to take us into the unforeseeable future. If you care about your business, this industry, then please step up and volunteer for one of the many committees and/or board of directors to show your concern, share your vision, and help us craft a positive course for the future of LAT – AND your business.

Leaders assume responsibility

Harry Truman was suddenly thrust into the Presidency after having been kept uninformed on the workings in the Roosevelt administration. He could have easily deferred decisions to others because of this. Instead he took responsibility and made tough decisions. One of his many famous quotes was on the sign on his desk - "The buck stops here!"

As I follow Chuck Pool as LAT

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president, another Truman quote is appropriate in recognition of Chuck's ability over the past few years to reenergize our association – "Men make history and not the other way around. In periods where there is no leadership, society stands still. Progress occurs when courageous, skillful leaders seize the opportunity to change things for the better."

Leaders are honest

George Washington had a reputation of being scrupulously honest; his word was his bond and you could believe what he said. You cannot lead if people don't trust your words or your actions. Truman said – "I never did give anybody hell. I just told the truth and they thought it was hell."

Something I learned from LAT past President Dick Ledermann over 20 years ago – "Don't tell me what I want to hear, tell me the truth!" Sometimes, the truth can be disturbing and hard to digest but we need to be honest in order to make good decisions.

Leaders are compassionate

Theodore Roosevelt came from a wealthy family. He knew personally many of the captains of industry of that time. He also realized that great fortunes were built upon the backs of working people through unfair business practices and that monopolies were decreasing competition that led to unjustifiably increased prices. Roosevelt undertook a campaign to break up the trusts and monopolies, becoming known as "Trust Buster." His compassion for the little guy won him fame, popularity and respect.

One of my favorite terms in management today is "humble servant". As leaders, we should not only serve our business but also our employees as they depend on us to be good stewards of our business in order for them to remain gainfully employed and provide for their families.

Leaders plan with thought and care

Dwight Eisenhower led the effort to

formulate Operation Overlord, the plan that led to a successful invasion and the liberation of Europe following the WWII invasion of France. The plan involved hundreds of thousands of troops, hundreds of ships and millions of tons of supplies, all coming together at the same time at the same place. Eisenhower knew that success comes from good planning. Hasty decisions can lead to disastrous results.

"Plan your work then work your plan!"

The best plans are useless if they are not followed. With careful planning and follow through, plans are your roadmap to success.

Quality leaders are willing to put personal agendas and egos aside.

General George S. Patton Jr. was a controversial figure even within the armed forces, a self-acknowledged prima donna who won battles but infuriated the Allied High Command. When he spoke impetuously about the British, he found himself without a command.

Abraham Lincoln surrounded himself with quality people; bright stars that often outshined him. He knew that the more success his subordinates had the more success the country would have. To preserve the union he did not care when the successful ones received more accolades than he did. He put aside his ego and personal agendas in order to fulfill his mission.

Truman said, "It is amazing what you can accomplish if you do not care who gets the credit."

GREEN BUILDING FEDERAL TAX DEDUCTIONS FOR YOUR BUSINESS

A tax deduction of up to \$1.80 per square foot is available to owners / designers of new or existing commercial building that save at least 50% of the heating and cooling energy of a building that meets ASHRAE Standard 90.1-2001. Partial deduction of

up to \$.60 per square foot can be taken for measures affecting any one of three building systems: the building envelope, lighting, or heating and cooling systems. These tax deduction are available for systems placed in service between January 1, 2006 and December 31, 2013.

For more information, as well as info on federal tax deductions for home energy improvements, auto tax credits, go to www.energy.gov/taxbreaks.htm

Certified Green Dealer Program

As we enter the second quarter of 2009, in our industry, Green Building is one of very few growth areas in today's economy. While building in most areas is way down--it will return. And when it does, dealers positioned to meet this demand will prosper. The Certified Green Dealer program's branding tools provide dealers with a true competitive advantage--something they can use in their signage, advertising, and communications with customers. Some participating dealers are showing the videos to builder customers during Contractor Nights, or other customer events.

A survey was conducted last November to learn how satisfied participating dealers are with the program. The vast majority of dealers involved in the program consider Certified Green Dealer an excellent investment. Most importantly, they view the program as having a direct impact on their sales. And, as we know, sales is where the "rubber meets the road."

The results show broad satisfaction with the Program and its contents. A remarkable 93% of participating dealers would recommend the Program to other lumberyards. 94% say that the Program's content is relevant to their sales efforts.

More than 88% of dealers answered "Yes" when asked if they have been able to improve their customer service or capture more sales as a result of the Program's green training.

93% believe that the Program's content provides them with knowledge they have

All of us in the building material industry are in the same boat together. The services that LAT provides in goods, employment programs, and educational offerings ... and what LAT does legislatively in Texas and Louisiana and what we do collectively with other associations and dealers from other states in Washington DC ... benefits us all. This is, quite simply, why everyone in this industry should support LAT. If you have friends or competitors who should be members of LAT and are not, you too, can be a leader in bringing their support in to LAT to benefit us all even more through strength in numbers.

One thing is for sure – "The more you put into the LAT, the more you will get out."

been able to use in their sales efforts and customer interactions.

When asked: “What level of interest is there among your customers in green building and green products?” 68% said that interest was “significant” or “somewhat significant.”

Since the Program was officially launched at the February 2008 International Builders Show, the “one-million-page-views” milestone has been achieved in just over 10 months.

Even in a down housing market, the Certified Green Dealer™ Program has grown at a remarkable rate, including the recent commitment from Builders FirstSource to the Program. Today, more than 4,000 lumberyard/building-material-dealer personnel are enrolled in the Program.

For 2009, the program will continue to be aggressively marketed through LBM Journal and the LAT TODAY newsletter. New training modules will be added to the program during the year as well - doubling the number of modules from 8 to 16. Just as the topic of green building continues to evolve, so will the Certified Green Dealer program.

LAT should be proud to be the first association to sign up to promote this program to its members – I know that I am. Thanks to the following LAT members who have put LAT at the top of the association list of Certified Green Dealers!

Fort Worth Lumber

Simms Lumber Texas locations

Builders First Source Texas locations

Bison Building Materials select locations

Cassity Jones select locations

Dash Lumber

With an Astounding 100% Renewal Rate, Lumber Dealers Are Re-Uping in the Program to Obtain More Training and to Continue Marketing Themselves as Certified Green Dealers!

The Certified Green Dealer™ Program, the nation’s only program for certifying the nation’s green lumber and building material dealerships, today announced that it has added four, new, green continuing-education training modules.

For dealers entering their second year in the Program, it is required that 75% of the sales personnel take four continuing-

education modules to maintain their Certified Green Dealer status. The continuing-education modules have been added to accommodate Certified Green Dealers who are “reupping” in the Program for their second year. To date, the rate of return for dealers who entered the program in 2007 and 2008 is 100%.

As with all the Program’s training, the new modules are available for viewing through the Program’s website. The four new modules cover Certified Wood; Decking; Treated Lumber; and Adhesives, Caulks, & Sealants.

With eleven regional lumber dealer associations backing the Program, the Certified Green Dealer Program now has more than half that nation’s “regionals” as marketing and certification partners.

The Certified Green Dealer™ Program has experienced remarkable success since its launch. In mid-November 2008, The Program announced its Website had surpassed one million (1,000,000) page views. Today the Program’s website has achieved 1.4 million page views.

Thousands of sales personnel at hundreds of dealer locations have already completed or are engaged in the Certified Green Dealer Program’s online training. These dealer locations include yards from national chains such as Bradco and Allied Building Supply, and members of buying co-ops such as Do it Best and ENAP, as well as many other independent lumber dealerships.

About the Certified Green Dealer™ Program

A fully independent entity, The Certified Green Dealer Program is a distance-learning and testing system that certifies that lumber dealer personnel are trained in the basics of green building science and green product knowledge. A lumberyard or building material dealer location can become a Certified Green Dealer if 75% of its sales personnel view a series of web-based training videos (and pass eight individual quizzes) about building basics, green building, and green building products.

The Program is not affiliated with any particular national standards-setting organization, such as NAHB, USGBC’s LEED program, FSC, or SFI, though those programs are explained in the Certified Green Dealer online content.

The Certified Green Dealer Program is entirely web-based and can be accessed

by visiting www.CertifiedGreenDealer.com. At the Program’s website, interested parties can view with no commitment a brief, free video that explains the Program. A sample educational module from the Program is also available for viewing with no obligation.

To participate in the Certified Green Dealer™ Program, lumber and building material dealers pay a per-yard tuition fee, which is currently \$899 per yard in the first year and \$599 in subsequent years to maintain certification.



To learn more about the Certified Green Dealer Program, visit www.CertifiedGreenDealer.com; call 877-LBM-GREEN.

Offbeat and Off the Grid

An enterprising family teaches high-tech self-sufficiency by example

by Gerald Moorhead, FAIA – from the Texas Society of Architects magazine

More makeshift engineering than design, a collection of shiny corrugated metal buildings along State Highway 71 between Columbus and Ellinger has been expanding for about a year. Welcome to the Industrial Country Market.

Although the 45-acre property being developed by the Bretch family has a 1,000-foot frontage on the highway, they are resolutely committed to off-the-grid self-sustainability through power generation, food production, and educational and recreational activities for the whole family—theirs and everyone else’s. Already in place are sun-tracking solar panels supplying a battery storage facility, a wind generator, an art gallery and woodworking shop, two greenhouses, raised beds for vegetables, and water storage tanks. A large “non-general” store sells Texas artisanal goods (among other things). The green roof of the power building has already produced crops of oats and wildflowers.

As a “playground for the whole family,” the diversity of amusements will include

HOW WILL YOUR SALESPEOPLE RESPOND WHEN CUSTOMERS ASK ABOUT GREEN BUILDING?



Give your salespeople the knowledge they need to meet the fast-growing demand for green building.

Just \$899 to train all your salespeople*, with no travel required.

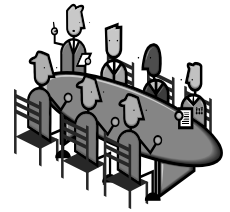
www.CertifiedGreenDealer.com
877.LBM.GREEN

* \$899 per dealer location, includes up to 25 salespeople



LAT Committee Information AND Preference Form

for April 2009 - April 2010



1. **LAT is YOUR association! MEMBERS provide the direction for LAT activities.**
2. ALL LAT members are encouraged to be active on at least one committee.
3. Participation is limited to membership on two committees and,
4. Committee assignments are based on individual interest in, **and** expertise you can bring to, the committee.
5. **LAT committees are WORKING committees.**
6. Committee members and Chairs are accountable to the LAT leadership for all activities planned or recommended to the leadership.
7. Select the committee(s) on which you would like to participate, and state your reason's why this / these committees are best suited to your abilities and talents.
8. *If you served on a committee previously and wish to continue as a member, you must complete and return this form for the incoming year.*
9. All committee terms are for one year beginning each April following the LAT convention.
10. LAT members are welcome to attend MOST committee meetings at any time as advisory members. If you have questions about this, ask the LAT staff.
11. Volunteers must sign up annually for each committee designated below:

Individual Name & Title: _____ **Email address:** _____

Company Name: _____ **EMAIL ADDRESS REQUIRED FOR COMMITTEE MEMBERS!**

Mailing Address: _____ **City:** _____ **State:** _____ **Zip:** _____

Phone Number: _____ **Fax Number:** _____ **Company website:** _____

1. **CHECK no more than two committee(s) of your choice and state why you wish to participate (additional space provided on second page for this purpose if you need more room):**

_____ ***The LAT Legislative committee** works with LAT staff and examines effects of Texas, Louisiana and federal governmental legislative activity and regulations, and recommends appropriate action.*

Experience / talent I can bring to this committee:

_____ ***The LAT Louisiana committee** is responsible for determining activities regarding membership, legislative, and member services issues particular to the state of Louisiana in order to retain and grow membership interests in Louisiana for LAT.*

Experience / talent I can bring to this committee:

_____ ***The LAT Marketing committee** makes recommendations regarding overall marketing, as well as events and website for the Association.*

Experience / talent I can bring to this committee:

_____ ***The LAT Member Services / Education / Safety committee** reviews and reports to the Board on new services, educational programs, and materials which can be made available to the membership.*

Experience / talent I can bring to this committee:

_____ ***The LAT Membership committee** makes recommendations regarding the retention of current members, increasing the involvement of current members in the Association, and increasing the membership (of all Classes) in the Association.*

Experience / talent I can bring to this committee:

OTHER LAT COMMITTEES include:

- *Audit & Investment,*
- *Budget & Finance,*
- *Convention,*
- *Executive,*
- *Oversight, and*
- *LUMPAC*

These committees are described in the LAT Bylaws – located in the back of your annual LAT Membership Directory AND on the LAT website. **Members of the above committees are appointed by the LAT president each year.**

If you're interested in serving on any of these committees note this here along with your reasons why you would bring value to these specific committees based on your knowledge and experience:

Experience / talent I can bring to _____ committee(s):

Every effort is made to put volunteers on the committee(s) of their choice.

Additional comments from first page:

Return completed Committee Preference form ASAP by FAX in order to be considered for membership on this year's committee. If you cannot meet this deadline, LAT members may attend most committee meetings as an advisory member. **Please ask the staff if you have any questions about meetings.**



Lumbermen's Association of Texas
**The Premier Organization of Quality Building
Material Suppliers in Louisiana And Texas**
One La Costa - 1016 La Posada Drive – Suite 150 - Austin TX 78752
Phone 512-472-1194 Fax 512-472-7378
www.lat.org

horticulture, woodworking, art classes, and, of course, lessons on green topics— power generation, water conservation, composting, and reclaiming resources. And, don't forget, wholesome shopping.

The Bretchs' approach to sustainability sounds like a twenty-first-century Whole Earth Catalog, the digital version, but still home/handmade, without professional advice. They want to "repurpose the world," meaning everything is secondhand, salvaged, found on eBay: lots of excess corrugated metal sheets from a construction site, surplus skylights put to use as windows, wood trusses from a defunct home builder, cedar posts and timbers collected from neighborhood ranches and milled on site, power components acquired from a divorce settlement (someone else's). The ad hoc appearance of the structures results from these materials not being used for their intended purpose but "repurposed."

All this dreaming and building is motivated by a grassroots-level appreciation for the need to control one's impact on the planet and to teach others the way. What the Industrial Country Market lacks in design finesse (for example, the composting toilets are located at the front door to the market and flashing conditions are problematic throughout) and construction craft, it makes up for in determined self-reliance and almost evangelical zeal.

--Gerald Moorhead, FAIA, is a Texas Architect contributing editor

MEMBER NEWS

On January 22, twenty eight Houston area building material dealers guests met for the LAT second regional lunch meeting at Pappas Seafood House on I-45. Sponsors, Holland Southwest & iLevel by Weyerhaeuser, treated everyone to lunch. LAT President Chuck Pool, Main Street Lumber – Denison TX, called the meeting to order, provided introductions and gave an update on the LAT regional meetings.

Vicki Fullerton was the featured speaker at the lunch. She is the 2009 Chair of the Board for the Houston Association of Realtors (HAR). Ms. Fullerton reported that while national market is in a downturn, Texas and the Houston area do get a vote of confidence. While sales are down, positive indicators exist. Inventory is finally dropping towards the six month area and active listings are also decreasing in number. Housing prices in the Houston

area have actually held up well, but are beginning to taper off. In December 2008 the average single family home price was \$192,135 and the median was \$145,000. One indicator Ms. Fullerton suggested watching was condo/townhouse sales as they are usually the first to drop and last to rise. One negative statistic is that building permits issued hit a 10 year low at the end of last year. One of the reasons is builders' difficulty in getting bank loans.

Ms. Fullerton pointed to potential drivers for lumber & building materials.

1) The economy turns around.

Many recent economists suggest Houston will rebound in late 2009

2) Continued hurricane repairs; a potential hurricane in 2009 (not something we are hoping for)

3) With the significant uptick in the number of homeowners refinancing their mortgages, more people may decide to make repairs, renovate, or remodel their existing home.

4) New home construction obviously has a longer lead time, so homebuilders will begin activity again in anticipation of the economic turnaround.

It was noted that with all the talk of foreclosures, the current rate of foreclosures is about half of the peak in the 1980s.

Where is Houston going? The market has seen double-digit increases in single-family home leases. These renters are typically people who would have purchased in the past but no longer qualify under the more stringent lending standards. They are expected to enter the market in a year or so after saving more for a down payment and having corrected credit problems. Despite taking a hit with lower energy prices, Houston is still one of the strongest markets in the country and is expected to bounce back earlier than others. 42,000 jobs have been added in the last 12 months and the Association of Foreign Investors ranked Houston the 8th best investment market in the world.

What can we do together? Encourage legislators to pass a comprehensive stimulus package that will help homeowners. NAR & NAHB both have been vocal proponents of various proposals including a home buyer tax credit incentives and a government buy-down of mortgage rates.

NAR chief economist: "With a proper real-estate focused stimulus measure, home sales could rise more than expected, by more than 10% to 5.5 million in 2009, and easily begin to stabilize home prices in many parts of the country." This would help restore homeowners' confidence which would help boost homebuilder confidence which NAHB shows as its lowest in history.

Winners of the \$50 Pappas gift certificates were Jim Biley with Montalbano Lumber and Gilbert Mitschke with Langwood Lumber. Thanks again to sponsors, iLevel by Weyerhaeuser & Holland Southwest.



LAT President Elect Bob Ashley & LAT Past presidents Bob Burns, Chuck Pool and Dick Ledermann



Jim Biley and JoAnn Gillebaard



Gilbert Mitschke and Joann Gillebaard

On March 10, Bobby Crowley with Richardson Lumber hosted a regional meeting in Dallas. Thirty Dallas area building material dealers and guests met

at Humperdink's Restaurant in Northwest Dallas and discussed industry issues and the North Dallas Market. Attendees enjoyed lunch compliments of sponsors RichardsonTimbers, DW Distribution, and Temple-Inland. Current LAT President Chuck Pool, Main Street Lumber-Denison TX, started off the meeting with a round of introductions which were highlighted by the attendance of six LAT Past Presidents. Pool followed with a brief history of LAT including its founding, the role LAT has played in the development of Lien Laws in Texas, and the merger of the Louisiana Building Material Dealer Association with LAT in 2001. Pool also gave a review of the testimony he and other LAT members gave the prior week to the Texas Legislature. Encouragement was given to all LAT members to be active in the legislative process.

Jeff Hickey, Sr. Vice President Mid-Market Business Lending-Guaranty Bank, gave a background on Guaranty Bank including its former ties with Temple-Inland. Guaranty Bank currently has \$16 billion in assets and over 150 branches in select markets in the United States. The majority of Guaranty's focus and branches are in Texas.

Mr. Hickey then introduced the Sr. Vice President of Guaranty Bank's Homebuilder Finance Group, Sam Meade. Mr. Meade began his detailed market report with a national focus. The nation is showing a 20% increase in foreclosures, with Texas faring better than the nation as a whole. With the increase of foreclosures, many national markets are seeing foreclosures accounting for 25% to 40% of total home sales. This is driving home values down as foreclosures often sell for 20% less than comparable homes. Most of these foreclosures are a result of the sub-prime lending crisis. The glut of home inventory, weak absorption rates, mortgage market turmoil, and the deteriorating job environment should continue to weaken home values. A status of home builders then followed. America's 100 largest builders saw a steep decline in closings in 2007 and after years of builder consolidation the top 100 saw their market share drop as well. Gross revenue fell and all of the top ten largest builders reported losses. As an example in 2002, the largest home builder, Horton had 31,584 starts. Horton continued to see increases starts with a high of 53,410 in 2006. 2007 saw a 29% decrease in starts to

37,717. 2008 results are not yet available, but will continue to show a decline.

Mr. Meade then spoke on the Dallas/Fort Worth market. Starts in 2006 were over 50,000 falling to 35,000 in 2007 and then 20,300 in 2008. The good news is closing eclipsed starts in 2008 and should continue to do so in 2009. By the end of the year, the DFW inventory is estimated to be back in balance. Population and new home demand are also encouraging. Since 1980, the population has increase by approximately 3 million people (2.5% a year) to six million. 750,000 new home closings occurred over that period or one for every four people added. With a current population growth rate expected at 2% to 2.5%, the new home demand ranges from approximately 30,000 to 37,500. With 16,000 to 18,000 starts expected in 2009, this would seem to indicate the area market is building pent-up demand.

Another issue is the current state of the largest home builders of the area. Seven of the top 40 builders in the DFW market were either in bankruptcy or had suspended operations. These are only examples of builders that Meade was aware. There could be more builders in this situation as well as others doing fine. In summary, Meade expects the market to continue to be soft for at least the first half of 2009 with some improvement in the second half. He based this on the current number of starts and the continued decline of inventory. Continued job growth in the area is also key to recovery in the area. A continuing issue for builders is the difficulty in potential buyers walking away from existing homes. If a builder has a number of homes to sell, then the interest carry and expense to maintain these houses creates cash flow issues-another problem for builders. In today's market, cash is king for builders and with the tight credit market, builders are having trouble starting new projects. He thinks the fact that more builders are filing for bankruptcy or suspending operations is more of a cash flow issue than a result of banks cutting off funds. Meade said Guaranty Bank has been committed to the homebuilding industry and plans to continue to do so. However, they are not increasing their exposure but are staying with their current customer base. They spend more time inspecting inventory, reviewing monthly operating statements, and looking for any sign of a problem with our customer. Mr. Meade suggests dealers

do the same thing.

Walter Foxworth, Foxworth-Galbraith Lumber, then gave a review of the last LAT Legislative report. A summary of the bills the LAT Legislative committee was given and Mr. Foxworth directed LAT members to the Legislative tab at www.lat.org for future reports on the Texas Legislature. Craig Lukshin, LAT Finance and Services Manager, followed and thanked the three speakers and all attendees for making the meeting a success. Recognition to the sponsors followed with Bobby Crowley and Richardson Timbers being thanked for putting together the lunch. Mr. Crowley invited everyone over to the nearby Richardson facility afterwards. Co-Sponsor Nathan Potter with DW Distribution also spoke briefly thanking the attendees and giving information on his company. 2009 LAT Associate Member of the Year & Sponsor Brenda Elliott-Temple-Inland was recognized as well. Lukshin then encouraged attendees to attend the upcoming LAT convention & events. Chuck Pool closed the event recognizing Tom Westbrook for his diligent work on the upcoming convention in Galveston.

Among the thirty attendees were these past presidents of LAT – Bart Graves, Roy Deering, Don DeGroot, Walter Foxworth, Lonnie Goolsby, Chuck Pool and Kyle McCarley.



Condolences to...

... Vivian Auldridge, ABC Lumber in Goldthwaite, Texas, whose father, Alvin Cunningham, passed away in Carthage, Missouri on January 19.

... the Foxworth family in Dallas. Sara Foxworth, wife of Jack Foxworth, and daughter in law of Walter Foxworth, passed away January 27 after a long battle with cancer, at the age of 52. Burial was Friday, 1/30/09, at Sparkman-Hillcrest Funeral Home and Cemetery (www.dignitymemorial.com). A Memorial service followed, to celebrate her life and faith at

Park Cities Baptist Church. In addition to her husband, Jack, Sara leaves a son and two daughters. To honor Sara's memory, contributions may be made to The Sara Beckham Foxworth Foundation (P.O. Box 799002, Dallas, TX, 75379, or see www.sarafoxworth.com) or in Sara's name to Park Cities Baptist Church (www.pcbc.org).



... the family of Henry Herder. Henry passed away February 1, 2009, at the age of 89. He was born and raised in Weimar, Texas. In 1941 he received a BS in Chemical Engineering from Texas A&M University, where he also served in the horse-drawn artillery unit of the TAMU Corps of Cadets. Following graduation he was immediately called to active duty as a result of the Japanese attack at Pearl Harbor. He was discharged with the rank of Major, returned home and married Mary Maxine Meisell of Columbus, Texas. He moved to Houston where his first child was born. Working for Engineers and Fabricators, he received the designation by the State of Texas as a Licensed Professional Engineer. Although very successful, he found himself frequently travelling to New York City, Montreal, Philadelphia and Chicago to open new offices. The family moved back to Weimar in 1950 where he became a partner with his brother-in-law, Elliot Hubbard. The lumber yard and home building business became known as Hubbard and Herder until later when it was simply Herder's. Henry continued in business for 41 years until his retirement in 1991. During this time his warm personality and work ethic produced many major clients who sought to escape Houston and live in the rich country environment surrounding Weimar. Henry provided building materials, designed homes and provided general contracting services for renovation and new construction. He was an active member of the LAT and was honored with the Lumberman of the Year Award in 1974. He served 1981-82 as LAT President. Henry remained active in his community for many years beyond his retirement. A memorial service celebrating his life was held February 6 at the Weimar United Methodist Church. Graveside service was at the Weimar Masonic Cemetery. In lieu of flowers, the family suggests donations to the First United Methodist Church,

301 W. St. Charles or Heritage Society Museum of Weimar, Inc., 125 East Main, Weimar, Texas 78962.

Thanks to

... LAT members Rufus Duncan - HBC, Meagan McCoy Jones - McCoy's, Luanne Woodruff - Foxworth Galbraith, Chuck Pool - Main Street Lumber, and to Misti Beanland, Attorney for testifying on behalf of HB 669 at the State Capitol on March 2. The bill was laid out by Rep. Burt Solomons for the House Business and Industry Committee. This bill will correct the fraudulent lien language that is posing a problem to building material dealers and subcontractors who make technical errors in their lien filings.

Pictured below, as they await to testify are, from left to right, Rufus Duncan, Chuck Pool, and Luanne Woodruff.



Pictured left, as they await to testify are, Duncan and Meagan Jones.

... Walter Foxworth, Cally Coleman Fromme, Chuck Pool, who joined LAT staff Barbara Douglas in Washington DC March 16-18 for the NLBMDA Legislative Conference and Congressional lobbying. More info will be in the next LAT Today newsletter. Thanks also to Bill Franks of Wood Protection, Houston, who helped set up a meeting with his son, Keith Franks, legislative aide for U.S. Senator John Cornyn. Pictured below are Keith and Chuck Pool.



Kudos to...

... DW Distribution Inc., who last fall in the aftermath of Hurricane Ike, pledged to their customers that they would make a donation to the American Red Cross based on a percentage of sales through the end of the year. DW held true to their promise and recently presented a large check to the CEO of the American Red Cross Dallas Area Chapter, Cheryl Sutterfield-Jones. Since the damage was quite severe and the recovery effort requires considerable resources, DW requested that this donation be specifically used in support of the Texas relief efforts. DW executives pictured with Cheryl from left to right are Aaron Elliott, Betty Evans, Nathan Potter, Cheryl Sutterfield-Jones, Byron Potter, Vernon Potter, Robert Harris, and Pat Wolver.



LEGISLATIVE NEWS



TEXAS MARCH 20 - TEXAS LEGISLATIVE REPORT / UPDATE

The bill-filing deadline was Friday, March 13th. A total of 4,697 House bills were filed, compared to 3,977 in 2007 and 3,474 in 2005. A total of 2,447 Senate bills were filed, compared to 1,944 in 2007 and 1,789 in 2005. 2,001 House bills and 1,453 Senate bills were filed during the last week of filing.

Both the Senate and the House are lagging behind in moving bills this session. As of Wednesday, 3/18, 56 bills had been reported from House committees, compared to 253 last session. And, by this point in 2007, the House had passed 19 bills, and they have not yet passed any bills this session.

MARCH 20 UPDATE GENERAL BUSINESS –

Lien Laws

HB 669 by Burt Solomons (R-Carrollton)

Abstract: Relating to liability arising out of the filing of a mechanic's, contractor's, or materialman's lien. This bill was filed on our behalf by Representative Burt Solomons to address the penalty, and definition of, fraudulent liens. Chapter 53 of the Texas Property Code creates a mechanic's, contractor or materialmen's lien. These liens are for individuals who have performed or provided materials for construction and were not paid for their services or material. The process created under Chapter 53 allows these individuals to file notice of a claim to a lien. Property liens, which are simple and inexpensive to file, prevent the property holder from selling the property without paying off the lien.

LAT strongly supported this bill as originally drafted, however the committee substitute has left this legislation in limbo as of 3/20/09.

On Wednesday, 3/18, the House Business and Industry's Subcommittee on Consumer and Employee Issues took up:

HB 523 by Helen Giddings (D-Dallas) would prohibit the printing of an individual's driver's license number on a sales receipt or document that evidences payment for a good or service. It was left pending.

HB 654 by Fred Brown (R-Bryan) would prohibit exorbitant or excessive pricing (a price in excess of the price of the good or service before the declaration of disaster) of consumer goods purchased primarily for personal, family, or household purposes and necessary for the health, safety, or welfare of a consumer and services during a declared state of disaster. It was left pending.

HANDGUNS – On Tuesday, the Senate Criminal Justice Committee took up:

SB 730 by Glenn Hegar (R-Katy) would prohibit a public or private employer from prohibiting an employee who holds a license to carry a concealed handgun from transporting or storing a firearm or ammunition in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the

employer provides for employees. In support were representatives of National Rifle Association, Texas State Rifle Association, Land Commissioner Jerry Patterson representing himself, and seven individuals. In opposition were representatives of Texas Association of Manufacturers, Texas Employment Law Council, Texas Association of Business, Texas Trial Lawyers Association, Texas Chemical Council, Texas Retailers Association, Technology Association of America, First Data Corporation, Texas Oil and Gas Association, Texas Railroad Association, Valero Energy Corporation, and Greater Houston Partnership. It was left pending, but the committee met again in a formal meeting on Wednesday and voted it out as substituted.

The House Public Safety Committee will take up:

HB 1301 by Stephen Frost (D-New Boston) would prohibit a public or private employer from prohibiting an employee who holds a license to carry a concealed handgun from transporting or storing a firearm or ammunition in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees.

Passed the Senate:

SB 555 would prohibit indemnification clauses in contracts between construction project owners, general contractors and subcontractors. The bill makes each party liable for its own negligence and bans transferring liability by contract for actions involving property damage, bodily injury or death. Exceptions are for the bodily injury or death of an employee of the indemnitor, its agent or subcontractor; a breach of contract or warranty; or a violation of a statute, ordinance, government regulation or rule. It passed the Senate by a vote of 30 to 1 with Senator Robert Nichols (R-Jacksonville) casting the only "no" vote.

WORKERS' COMPENSATION –

On Monday, the House Business and Industry Committee took up:

HB 1657 by Helen Giddings (D-DeSoto) would change the definitions of "general contractor" and "subcontractor" under the workers' compensation statute. Under this bill, property owners could no longer be considered the general contractor and cover

subcontractors under the property owner's workers' compensation coverage. This bill is commonly referred to as the "Entergy bill" after the Texas Supreme Court case where an injured Entergy employee who received benefits under the company's worker's compensation policy could not sue the company for further damages. In support were representatives of Texas Trial Lawyers Association, Texas AFL-CIO, Texans for Public Justice, TPLC-CWA Union, and four individuals. In opposition were representatives of Texas Civil Justice League, Texans for Lawsuit Reform, Texas Association of Manufacturers, AGC Texas Building Branch, Shell Oil, Texas Association of Business, Associated Builders and Contractors of Texas, Dow Chemical Company, American Insurance Association, Valero Energy Corporation, Huntsman Corporation, Texas Apartment Association, National Federation of Independent Business, Texas Chemical Council, and Texas Oil and Gas Association. It was left pending.

HB 33 by David Leibowitz (D-San Antonio) would require employers that do not carry workers' compensation insurance to report to the Texas Department of Insurance's Division of Workers' Compensation data relating to each work-related injury sustained by an employee and any related benefits paid to the employee and certification that the employer will not, before the 10th day after the date of the accrual of an employee's cause of action against the employer to recover damages for personal injury or death sustained by the employee, enter into a contract with the employee that affects a procedural or substantive right of the employee to recover damages in that action.

WORKFORCE: Committee Reports:

HB 516 by Mark Strama (D-Austin) would establish the Green Job Skills Development Fund and Training Program at the Texas Workforce Commission to promote green industry employment opportunities. It was reported favorably as substituted from the House Technology, Economic Development, and Workforce Committee.

Additional information can be obtained via the Senate and House website:

www.senate.state.tx.us

www.house.state.tx.us

The following are Bills LAT was watching closely as of 3/13/09.

Price Fixing during Declared State of Disaster

HB 24 by David Leibowitz (D-San Antonio)

Abstract: Relating to restrictions on the prices of certain consumer goods and services during an abnormal disruption of the market. This bill would prohibit a merchant or wholesaler from selling an essential consumer good or service in an area with abnormal disruption of the market at a price that is unconscionable excessive (if the price exceeds 20% or more of the price the good or service was sold prior to the disruption).

LAT opposes this bill as currently drafted.

HB 654 by Fred Brown (R-Bryan)

Abstract: Relating to the prices of certain consumer goods and services during a declared state of disaster. This bill would prohibit exorbitant or excessive pricing (a price in excess of the price of the good or service before the declaration of disaster) of consumer goods purchased primarily for personal, family, or household purposes and necessary for the health, safety, or welfare of a consumer during a declared state of disaster.

LAT opposes this bill as currently drafted.

SB 487 by Royce West (D-Dallas)

Abstract: Relating to restrictions on the prices of certain consumer goods and services during an abnormal disruption of the market. This bill would authorize the governor to declare a state of disaster due to a fire, explosion, flood, hurricane, tornado, drought, earthquake, act of terrorism, or massive destruction of property; and would prohibit a person (including a merchant or wholesaler) from selling an essential consumer good or service in the area for a price that is unconscionable excessive (15% or higher than the price at which the good or service was previously sold).

LAT opposes this bill as currently drafted.

Posting Required by LBM Dealers

HB 2552 by Abel Herrero (D-Robstown)

Abstract: Relating to public notice of building requirements and inspection

standards in first tier coastal counties. From the bill: "The department shall by rule develop a public notice form to be posted in all building supply stores in first tier coastal counties in order to educate consumers on specific building requirements and inspection standards for coverage through the association."

LAT working with TDI on this.

Aerosol Paint Regulations

HB 218 by Menendez

Abstract: Relating to the regulation of the sale of aerosol paint by counties and municipalities. Purpose of this bill is to reduce graffiti. This bill would allow a county by order or municipality by ordinance to require a person who sells aerosol paint to require proof of identification from the buyer and record the sale and identification information in a log to be maintained for at least two years. Could also allow for up to a \$1.00 surcharge on each sale and the money from this surcharge used toward graffiti abatement.

LAT opposes this bill as currently drafted, working with Texas Paint Council to oppose.

HB 1234 by Menendez

Abstract: Relating to the regulation of the sale of aerosol paint; providing criminal penalties for allowing minors access to aerosol paint used for graffiti. This bill does not necessarily implicate the retailer of the paint. This bill is similar to HB 218 but adds that a person commits an offense (class B misdemeanor) if the paint was used by a minor to commit an offense and the person failed to prevent access to the paint by a minor. This bill does not necessarily implicate the retailer of the paint.

LAT opposes this bill as currently drafted, working with Texas Paint Council to oppose.

HB 489 by Pickett

Abstract: Relating to the authority of a county or municipality to remove graffiti from private property at the owner's expense. A county or municipality may require an owner of property within the jurisdiction of the county or municipality to remove graffiti from the owner's property. A requirement adopted under this section shall provide that if an owner of property fails to remove graffiti not later than the seventh day after the date

of notice, the county or municipality may: (1) perform the work necessary to remove the graffiti; or (2) pay for the removal of the graffiti and charge the expense to the owner of the property. The notice required by Subsection (b) must be given: (1) personally to the owner in writing; (2) by letter sent by certified mail, addressed to the owner at the owner's address as contained in the records of the appraisal district in which the property is located; or (3) if service cannot be obtained under Subdivision (1) or (2): (A) by publication at least once; (B) by posting the notice on or near the front door of each building on the property to which the notice relates; or (C) by posting the notice on a placard attached to a stake driven into the ground on the property to which the notice relates.

LAT opposes this bill as currently drafted, working with Texas Paint Council to oppose.

Note: HB 1558, HB 1633, HB 4016, and SB 1078 relate to the penalties for graffiti offense. They are related to these bills but do not impact the dealer.

HB 4396 by Joe Deshotel (D-Beaumont)

Abstract: Relating to setting a prudent uniform standard for the retail display of aerosol paint; and providing for the collection and distribution of a surcharge on such paint for purpose of preventing graffiti vandalism and repairing damage therefrom.

Notes: 3/13 text for bill was not available online

Green Building Requirements

SB 670 by Eliot Shapleigh (D-El Paso)

Abstract: Relating to design and construction standards for newly constructed state buildings, public school facilities, and higher education facilities.

Position: LAT opposes this bill as currently drafted

Action: Jones to contact Shapleigh's office; 3/5 Raven drafted letter to Shapleigh

Companion:

Committee: Natural Resources

Notes: This is a LEED-specific bill, and LAT will work to get language amended to include other qualified green building programs

SB 267 by Chuy Hinojosa (D-McAllen), Wendy Davis (D-Fort Worth), and Rodney

Ellis (D-Houston)

Abstract: Relating to design, construction, and renovation standards for state buildings and facilities. This bill does not specifically name any green building program but does require minimum standards for energy use, natural resource use, and indoor air quality and requires documentation to be certified by a third-party certification system.

Companion: HB 2019 by Strama, SB 127 by Ellis

Committee: Natural Resources

Notes: 3/17 public hearing

SB 127 by Rodney Ellis (D-Houston)

Abstract: Relating to design, construction, and renovation standards for state buildings and facilities. This bill does not specifically name any green building program but does require minimum standards for energy use, natural resource use, and indoor air quality and requires documentation to be certified by a third-party certification system.

Companion: SB 267 by Hinojosa, SB 127 by Ellis

Committee: Natural Resources

HB 2019 by Mark Strama (D-Austin)

Abstract: Relating to design, construction, and renovation standards for state buildings and facilities. This bill does not specifically name any green building program but does require minimum standards for energy use, natural resource use, and indoor air quality and requires documentation to be certified by a third-party certification system.

Companion: SB 267 by Hinojosa, SB 127 by Ellis

Committee: State Affairs

HB 2783 by Rafael Anchia (D-Dallas)

Abstract: Relating to the adoption of energy efficient building standards. This changes the energy efficiency provisions of the IRC as stated on May 1, 2009 as code for single-family construction and calls it the International Energy Conservation Code for single-family construction

HB 3149 by Rafael Anchia (D-Dallas)

Abstract: Relating to the adoption and financing of energy efficiency, conservation, and indoor air quality standards for the design, construction, and renovation of public school instructional facilities. Specifically supports Green Globes and LEED.

SB 1523 by Eliot Shapleigh (D-El Paso)

Abstract: Relating to requiring satisfactory completion of a course in the LEED Green Building Rating System as a requisite for a degree in architecture at certain public institutions of higher education. This bill does not require architecture students to obtain a LEED AP certification, but it does require they take a course toward that type of certification.

HB 4086 by Jessica Farrar (D-Houston)

Abstract: Relating to energy efficiency in newly constructed buildings. This bill makes the energy efficiency chapter of the International Residential Code the energy code for Texas for single-family residential construction and gives direction to the State Energy Conservation Office to promote energy efficiency.

Construction Contracts

SB 555 by Robert Duncan (R-Lubbock) and HB 818 By Craig Eiland (D-Galveston)

Abstract: Relating to indemnification provisions in construction contracts.

HB 4489 and 4490 by Craig Eiland (D-Galveston)

Abstract: Relating to certain contracts by certain governmental entities.

Notes: 3/13 The text of these bills was not available online.

Sales Tax

SB 134 by Rodney Ellis (D-Houston)

Abstract: Related to extending the period during which energy-efficiency products are exempt from the sales tax from Saturday, Sunday and Monday of Memorial Day weekend to also include Friday and Tuesday of Memorial Day weekend.

Action: Raven will get detailed list of products included in the tax exemption.

Committee: Finance

HB450 by Larry Taylor (R-Friendswood) and Ken Legler (R-Pasadena)

Abstract: Relating to exempting certain hurricane preparation supplies from the sales tax for a limited period. This bill would exempt hurricane preparation supplies from the sales tax during the first weekend in June.

Position: LAT supports this bill as currently drafted, however, language could include preparation for other events (tornados, floods, etc.)

Action: 3/5 Raven drafted letter to Taylor

Companion: SB 360 by Dan Patrick and Mike Jackson is identical. SB 179 by Gallegos is similar.

Committee: Ways and Means

Notes: 2/22 Jones spoke with Rose's Chief of Staff – these bills are unlikely to pass due to the fiscal implications.

SB 360 by Dan Patrick (R-Houston) and Mike Jackson (R-La Porte)

Abstract: Relating to exempting certain hurricane preparation supplies from the sales tax for a limited period. This bill would exempt hurricane preparation supplies from the sales tax during the first weekend in June.

Position: LAT supports this bill as currently drafted, however, language could include preparation for other events (tornados, floods, etc.)

Companion: HB 450 by Taylor and Legler is identical. SB 179 by Gallegos is similar.

Committee: Finance

Notes: 2/22 Jones spoke with Rose's Chief of Staff – these bills are unlikely to pass due to the fiscal implications.

SB 179 by Mario Gallegos (D-Houston)

Abstract: Relating to exempting certain hurricane preparation supplies from the sales tax for a limited period. This bill would exempt hurricane preparation items from the sales tax annually between June 4th and June 7th up to \$20 per item for artificial ice products, duct tape, flash lights, lanterns, and candles; up to \$25 for gasoline or diesel fuel containers, manual can openers, and first-aid kits; up to \$30 for batteries and ice chests; up to \$50 for tarps, tie-down kits, water storage containers, elastic cords and ratchet straps; up to \$75 for cellular telephone batteries and chargers, non-electric radios, carbon monoxide or smoke detectors and fire extinguishers; up to \$200 for storm shutters and items designed to prevent window damage; and up to \$1,000 for portable generators and power inverters.

Position: LAT opposes this bill because of the difficulty to administer by the retailer.

Companion: HB 450 by Taylor and

Legler and SB 360 by Patrick and Jackson are similar

Committee: Finance

Notes: 2/22 Jones spoke with Rose's Chief of Staff – these bills are unlikely to pass due to the fiscal implications.

HB 1376 by Senfronia Thompson (D-Houston)

Abstract: Relating to the collection and allocation of local sales and use taxes. For businesses with multiple locations, it states the sales tax is paid based on the location from which the material is shipped, where the purchaser places the order or agrees to pay for it (if it was paid for before shipping), or at the retail location where the purchaser takes possession of it.

Committee: Ways and Means

Notes: We think this makes a change to the sales tax because it requires the retailer to charge sales tax based on the selling location, rather than the ship-to location. Working on clarification for this one – feel free to take a look at it in the mean time.

HB 1591 by Mike Hamilton (R-Mauriceville)

Abstract: Relating to exempting sales of certain hurricane preparation supplies. This is another quantity-specific tax exemption bill.

Committee: Ways and Means

Notes: The motive is good, but it would be difficult to implement.

SB 377 by Leticia Van de Putte (D-San Antonio) and co-authored by Eddie Lucio (D-Brownsville),

HB 1024 by Joe Deshotel (D-Port Arthur)
Abstract: Relating to eligibility for unemployment compensation benefits based on the claimant's availability to do part-time work. This bill would extend unemployment compensation benefits to individuals who are only available for part-time work if the individual has a legitimate reason to limit the individual's employment to part-time work and the individual's last work was part-time.

Position: LAT opposes these bills as currently drafted.

HB 3509 by Jim Dunnam (D-Waco)

Abstract: Relating to disqualification from driving a commercial motor vehicle. Current law suspends the holder of a commercial driver's license based on violations while the individual is driving any vehicle. This bill changes the law

so that the only applicable violations counting toward license suspension are those that occurred while the individual was driving a CMV.

Franchise Tax

HB 4264 by Donna Howard (D-Austin)

Abstract: Relating to the determination of cost of goods sold for purposes of computing the franchise tax. This dramatically simplifies the definition of COGS to that reported on Federal Income Tax returns.

Property and Property Taxes

HB 500 by Lois Kolkhorst (R-Brenham)

Abstract: Relating to a temporary prohibition on increasing the market value of certain parcels of real property for ad valorem tax purposes following determination of a protest or appeal. This bill would provide that if the chief appraiser determines that the value of commercial or residential real property is reduced by 15% or more, the market value of the property could not be increased for the first two tax years following the tax year in which the market value of the property was reduced unless an improvement is made to the property (other than routine repairs or maintenance).

Position: LAT supports this bill as currently drafted.

Committee: Ways and Means

Notes: 3/11 public testimony, left pending

Texas Windstorm Insurance

HB 4170 by Wayne Smith (R-Baytown)

Abstract: Relating to requiring property inspections for windstorm and hail insurance in certain geographic areas and authorizing certain political subdivisions to adopt and enforce regulations relating to severe weather, including residential building codes, abandoned land, and damaged buildings; granting a limited power of eminent domain.

Notes: 3/13 text of this bill was not available online

General/Miscellaneous Business

HB 194 by Roberto Alonzo (D-Dallas)

Abstract: Relating to use of a credit score by a business or lender. This bill would prohibit a business from discriminating against a customer in the price or rate that

the business charges for a good or service, or rate of interest charged, based on the customer's credit score. This applies to the credit interest rate that a business may charge.

Position: LAT opposes this bill as currently drafted.

Action: 2/23 Raven discussed this bill with Alonzo staffer Clarissa Ramon and will follow up with letter to Alonzo.

Committee: Pensions, Investments and Financial Services

SB 180 by Mario Gallegos (D-Houston)

Abstract: Relating to the creation of a state occupational health and safety plan; establishing a maintenance tax. This bill would create a State Occupational Health and Safety Plan and would require the Insurance Commissioner to develop a state plan relating to state enforcement of occupational health and safety standards protecting the life, health, and safety of persons at their places of employment that complies with federal Occupational Safety and Health Act. This office would be funded by a "maintenance tax" imposed on insurance policy issuers.

Position: LAT opposes this bill as currently drafted.

Action: 3/5 Raven drafted letter to Gallegos

Committee: State Affairs

HB 345 by Gary Elkins (R-Houston)

Abstract: Relating to a business's duty to protect sensitive personal information contained in its customer records. This bill would require businesses that collect sensitive personal information or stores or maintains sensitive personal information in a structured database or unstructured files in connection with an access device to comply with payment card industry data security standards; and would authorize a financial institution to bring an action against a business that is subject to a breach of system security if the business is not in compliance with payment card industry data security standards.

Position: LAT opposes this bill as currently drafted.

Companion: SB 327 by Leticia Van de Putte (D-San Antonio) et al.

Committee: Business and Industry

Notes: 3/9 public hearing, referred to Subcommittee: Giddings, Deshotel, Orr, Quintanilla, Sylvester Turner

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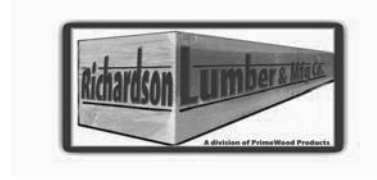
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SB 327 by Leticia Van de Putte (D-San Antonio) and Carlos Uresti (D-San Antonio)

Position: LAT opposes this bill as currently drafted.

Companion: HB 345 by Gary Elkins (R-Houston)

Committee: Business and Commerce

HB 1361 by Rafael Anchia (D-Dallas)

Abstract: Charges a consumer \$0.07 for each disposable plastic bag used unless it's holding products without packaging (i.e. bulk grains or produce) or is compostable. Three percent stays with the retailer, remaining fee is remitted to Comptroller for a general fund to assist local recycling programs.

Committee: Ways and Means

HB 1867 by Rafael Anchia (D-Dallas) and Eddie Lucio (D-Brownsville); SB 338 by Leticia Van de Putte (D-San Antonio)

Abstract: Relating to requirements for businesses that offer plastic checkout bags to customers; providing civil and administrative penalties. Applies to businesses with at least 51 employees and requires them, if they use plastic bags, to also offer a reusable bag at a reasonable price and have a recycling program for plastic bags.

Committee: Environmental Regulation

HB 3427 by Ana Hernandez (D-Houston)

Abstract: Relating to requirements for businesses that offer plastic checkout bags to customers; providing civil and administrative penalties.

Companion: Similar to HB 1867 and SB 338.

HB 3513 by Jim Dunnam (D-Waco)

Abstract: Relating to the duty to protect and safeguard sensitive personal information. Business must destroy or arrange for destruction of customer records

containing sensitive personal information. "Sensitive personal information" is not defined.

SB 962 by Rodney Ellis (D-Houston)

Abstract: Relating to a business's electronic transmission of the sensitive personal information of its customers. May not electronically transfer sensitive customer information to a person outside the secure computer system of the business unless encryption is used.

Committee: Business and Commerce

SB 1759 by Kirk Watson (D-Austin)

Abstract: Relating to the permanent registration of fleet vehicles. A "fleet" is at least 50 motor vehicles used for business purposes. This would allow fleets to have permanent license plates and registration cards, plates would read "fleet" and could include owner's name or logo and a charge of \$10 per vehicle per year is applied. Payment of registration taxes and fees must be paid in advance for at least 3 years and no more than 10 years, so no annual validation window sticker would be required.

Additional information can be obtained via the Senate and House websites:

www.senate.state.tx.us

www.house.state.tx.us



LOUISIANA LEGISLATURE

The Louisiana 2009 Regular Legislative Session will convene at noon on Monday, April 27, 2009. Final adjournment no later than 6 pm on Thursday, June 25, 2009.

See this website for updates on the Louisiana Legislature, including legislator committee assignments and contact information - www.legis.state.la.us

Bills currently filed in the House and

Senate of interest to LAT members in Louisiana include:

LAT recently joined LABI to enhance our legislative efforts in Louisiana for our members there.

LABI:

- is the largest and most effective business lobbying group in Louisiana;
- was formed over thirty years ago by business leaders from all over the state;
- unified the state's business community into a strong, well-financed, properly staffed organization;
- speaks for business and industry, not only during legislative sessions, but year-round;
- is a proven force in Louisiana government.

LABI has nine full-time lobbyists who provide the capacity for the Louisiana business community to be a presence at the various committee meetings and on both floors simultaneously during legislative sessions. They also have four political action committees (PACs) in hundreds of legislative and judicial elections around the entire state. The PAC's help recruit and elect pro-business candidates for the legislature and judiciary. In addition, the PACs monitor and evaluate the voting records of elected officials on important issues that affect Louisiana businesses.

NORTH PAC, SOUTH PAC, EAST PAC and WEST PAC are four geographically situated political action committees (PACs) that serve as the political action arm of the Louisiana Association of Business and Industry (LABI). The primary function of these four PACs is to recruit and help elect conservative, pro-business candidates for legislative and other state offices - candidates without ties or obligations to special-interest groups. The PACs' candidate assistance includes financial support and campaign strategies.

Each PAC is a non-profit, bipartisan

HB8	G.SMITH	ASSIGNED TO HOUSE WAYS & MEANS	TAX CREDITS: Provides for a tax credit for certain small businesses who pay health insurance premiums for their employees
HB10	G.SMITH	ASSIGNED TO HOUSE WAYS & MEANS	TAX/TAXATION: Provides additional incentive for the use of Louisiana labor and materials for companies that receive tax incentives for creating jobs in Louisiana
HB25	ROBIDEAUX	ASSIGNED TO HOUSE WAYS & MEANS	TAX/SALES-USE-EXEMPT: Requires a state "sales tax holiday" for certain hurricane-preparedness items or supplies during a state of emergency which has been declared due to a named tropical storm or hurricane
HB32	FOIL	ASSIGNED TO HOUSE WAYS & MEANS	TAX CREDITS: Authorizes the wind or solar energy systems tax credit to apply to commercial or business property

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council, the membership of which is voluntary. Among those individuals supporting the PACs are Louisiana business owners, industrialists, and professionals in every area of the state. Of the more than 1,000 PAC members who give each year, some 160 serve on area committees or one of the four boards of directors. Many also serve in political campaigns.

With LAT's membership in LABI we can better counter anti-business campaigns of special-interest groups; amplify your voice by joining with others to support a candidate or lobby a particular bill in the Legislature.; and retain a continuing influence in the political arena to make sure your candidates keep their campaign promises.

A LOOMING TAX INCREASE FOR SMALL BUSINESS?

While opening your Christmas mail, you may have noticed something that did not leave you in the holiday spirit – your 2008 property tax bill. With this being a reassessment year, you also probably noticed that your property values have increased.

Assessors are required to re-assess property at least every four years. During the last reassessment cycle in 2004, many taxpayers were unaware of the reassessment process and were shocked at the increases when they opened their tax bills in December. Hearing the concerns of the taxpayers, the Legislature in 2005 added a requirement that assessors provide taxpayers written notice of their reassessed valuations in sufficient time to properly contest their new valuations.

The reality of higher property values and larger tax bills will certainly, once again, stir up the discussion of increasing the homestead exemption. Raising the \$75,000 homestead exemption, which is already one of the highest in the country, would cause renters, businesses, and other homeowners to pick up the tab for the tax savings given to some homeowners. Since businesses pay most of the property taxes, it would to a large degree be a tax increase on small business. Increasing the homestead exemption would also shrink the property tax base for local governments, making it more difficult for them to generate local revenue.

Another property tax benefit already on the books is for special level assessments. These special assessments allow certain homeowners the benefit of freezing their property values, which protects them from future property value increases. One of the special level assessments is for homeowners 65 years and older, provided they make less than \$64,500. To get an idea of the prevalence of special assessments, the Tax Commission obtained the amount from a few parishes: East Baton Rouge Parish (18% of homesteads), Orleans Parish (20%), Lafayette Parish (10%), and Tangipahoa Parish (10%).

Property taxes are used to fund local necessities, such as schools, fire and police protection, as well as water and sewer infrastructure and related services. Even though these services benefit all taxpayers, about 50% of all homeowners still pay zero property tax.

The general business community, which pays over 80% of all property taxes, receives no exemptions or special level

assessments. Businesses are re-assessed each year on all of their property (not just land and improvements), and are taxed at rates of 15% to 25% of fair market value, as compared with homeowners who are taxed at only 10%.

Rather than exemptions and special level assessments, the resolution of higher property tax bills needs to be properly focused on its root cause – property tax millage rates. When assessors perform their constitutional function of valuing property at fair market value, the higher property values result in an automatic roll-back of millages. Generally, the combination of higher property values and reduced millages rates have the overall effect of leveling off property tax bills, which benefits all taxpayers and not just a few select classes of homeowners.

However, following the automatic roll-back of millages, local taxing bodies are authorized under the state constitution and without voter approval to roll-forward its millage rate with only a two-thirds vote of the members of the taxing body. It is this subsequent rolling-forward of the millage rates, and not the reassessment of property to current fair market value, that produces the sticker shock property tax bills. Many of these taxing bodies that choose to roll-forward their millages are not even elected officials, but rather appointed members of boards that have the power of taxation.

Limiting the ability of taxing bodies to roll-forward millages, without voter approval, would give all taxpayers something to celebrate after the next reassessment cycle – lower millages rates. By Dan Juneau, President, LABI - The Louisiana Association of Business and Industry.

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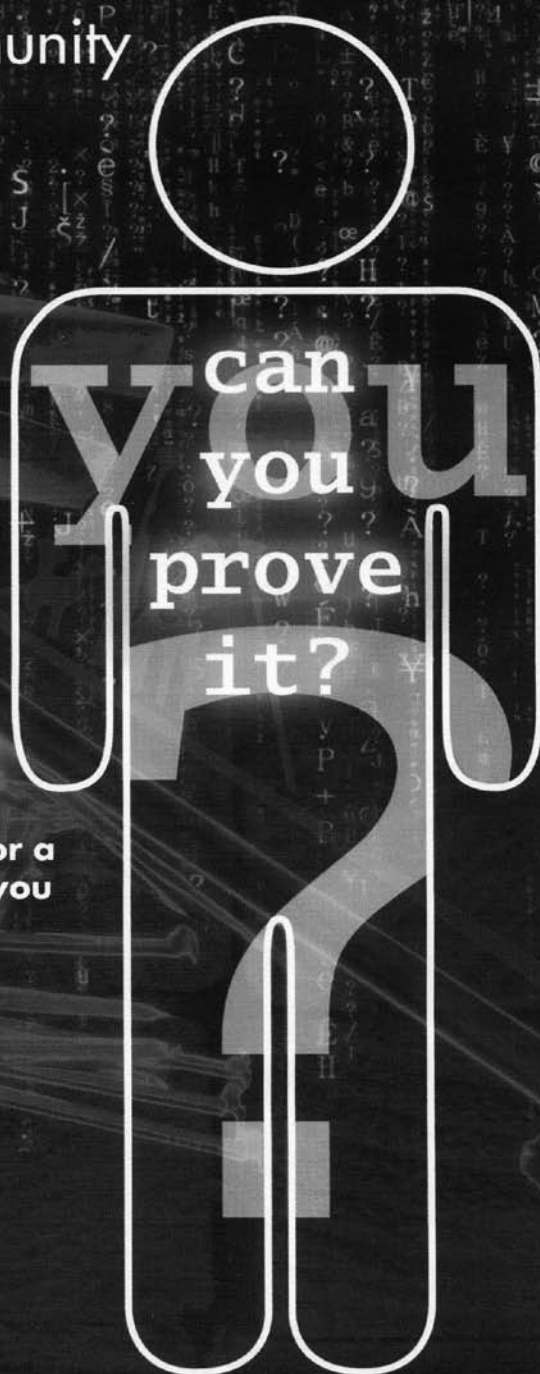
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NLBMDA ALERT

IRS Releases Details on NOL Carryback Provisions for Small Businesses

NLBMDA to Continue to Seek Expansion

The Internal Revenue Service has released guidance for small businesses that want to take advantage of the revised Net Operating Loss Carryback provisions enacted as part of the recent stimulus legislation. Small businesses with deductions exceeding their income in 2008 can use a new net operating loss tax provision to get a refund of taxes paid in prior years.

To accommodate the change in tax law, the IRS updated the instructions for two key forms — Forms [1045](#) and [1139](#) — that small businesses can use to make use of the special carryback provision for tax year 2008. These forms are used to accelerate the payment of refunds.

The new provision, enacted as part of the American Recovery and Reinvestment Act of 2009 (ARRA), enables small businesses with a net operating loss (NOL) in 2008 to elect to offset this loss against income earned in up to five prior years. Typically, an NOL can be carried back for only two years. The IRS released legal guidance today in [Revenue Procedure 2009-19](#) outlining specific details. Some taxpayers must make the election to use this special carryback by April 17, 2009.

With the economic downturn and the new law, the IRS expects record numbers of small businesses to be eligible for the refunds. The IRS is putting in special steps to ensure timely processing of these refunds to help small businesses during this difficult period. Small businesses with large losses in 2008 may be able to benefit fully from those losses now, rather than waiting until claiming them on future tax returns.

The normal two-year carryback remains available if the small business does not elect the special carryback provision. If the loss exceeds the income for the carryback period, the taxpayer can continue to carry forward the remaining balance of the NOL for up to 20 years.

For small businesses that use a fiscal year, this special carryback may be used for an NOL in either a tax year that ends in 2008 or a tax year that begins in 2008. Once a taxpayer makes this election, it may not be changed.

To qualify for the new five-year carryback provision, a small business must have no greater than an average of \$15 million in gross receipts over a three-year period ending with the tax year of the NOL. Businesses with more than \$15 million in gross receipts still qualify to carry back their 2008 NOL for two years.

(continued on page 22)

NLBMDA ALERT *(continued from page 21)*

There are several methods that a small business uses to elect the new provision as detailed in the Revenue Procedure.

If a small business previously elected to waive the carryback of 2008 NOL but now wants to elect this special carryback, the small business may revoke its previous election to waive the carryback. The election revocation must be made on or before April 17, 2009.

Generally small businesses that are not corporations (including sole proprietorships filing schedule C with their Form 1040) may accelerate a refund by using [Form 1045](#), Application for Tentative Refund.

Corporations with NOLs may also accelerate a refund by using [Form 1139](#), Corporation Application for Tentative Refund.

The IRS will be closely monitoring these filings and will provide additional staff as needed to process these forms. The IRS will work to issue refunds within 45 days or even earlier to the degree possible.

In addition, [questions and answers](#) have been posted on the IRS web site. Small businesses that file Form 1040 can also call 1-800-829-1040 with NOL questions. Corporations can contact 1-800-829-4933 with NOL questions.

Form 1045 or Form 1139, whichever the taxpayer uses, generally must be filed within one year after the end of the tax year of the NOL. In addition, the current year's tax return must be filed by the date the Form 1045 or Form 1139 is filed. Form 1045 and Form 1139 are filed at the same place the taxpayer's return is filed, as listed on the return instructions.

Accelerated refunds paid via Form 1045 or Form 1139 is described as "tentative" because the applications for refunds are potentially subject to review at a later date. [Form 1045 Instructions](#) and [Form 1139 Instructions](#) provide more information on the accelerated refund option.

NLBMDA will continue to work for an expansion of the NOL so that it applies to all businesses. This is critically needed to protect jobs in companies most impacted by the housing crisis. Extending the NOL carryback period is a proven mechanism to stimulate the economy. Congress provided a five-year carryback for 2001 and 2002 NOLs in the Job Creation and Worker Assistance Act of 2002 enacted following the September 11 terrorist attacks. Because capital to continue operations (payroll, debt payments, etc.) continues to be very tight, if available at all, the need to transform a future tax benefit into cash today is critical to maintain otherwise viable businesses. Such critical NOL relief would help building material suppliers retain jobs, make critical investments, and in some cases, stay open for business.



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