

# THE LUMBER LOG

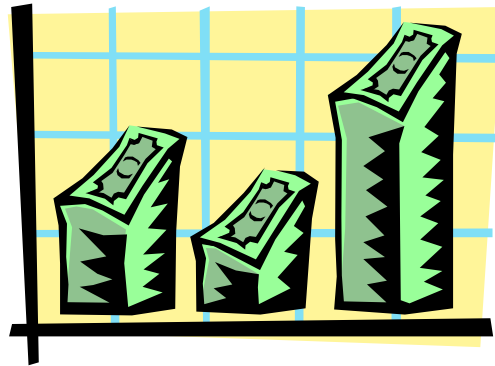
A PUBLICATION OF THE LUMBER ASSOCIATION OF CALIFORNIA & NEVADA

February, 2012

## LACN offers member program to compare and analyze operational costs

LACN dealer members will be able to compare their operational costs and employee salaries to regional and national average using a program from the regional LBM associations. The Building Material Operations Comparison (BMO) program, now in its third year of data, is a web-based program that provides a comprehensive review of expenses and a salary survey in one tool. Participation and signup information is available from LACN.

The program was developed by the Construction Suppliers Association, which has used it for dealer roundtables for the past three years. CSA is the regional lumber and building material association for Georgia and Alabama.



Features of the BMO program include:

- Web-based program with easy data entry. Definitions are provided for categories so that analysis makes “apples to apples” comparisons.
- System auto-computes many numbers and highlights potential errors to prevent typographical errors from ruining analysis.
- A secure environment that conforms to the high SSL standards required for e-commerce. Passwords are encrypted. Information is stored on a server that is ISO9001 compliant.
- More than 80 charts and graphs, many with industry benchmarks and tags showing which way you want your data to be trending.
- Ability to store your data from year to year, allowing you to see how you have improved (or not) over time.
- Created and managed by regional Lumber and Building Material associations dealers trust. The data is safe, secure and confidential.
- Combines cost studies and salary surveys into one program for less time and expense.

Cost for members of LACN to participate in the program is \$200. Non-member rate is \$500.

## LACN PAC golf tournament Set for April 14 at Black Gold

LACN's annual spring PAC Golf Tournament is set for April 12, 2012, at the Black Gold Golf Club in Yorba Linda, the same location as in past years. This annual event benefits LACN's government affairs program and provides a great opportunity for LACN members and guests to network on a great golf course.

The shotgun start is at 8:00 AM with lunch and awards presentation to follow. The \$175 per golfer registration fee includes green fees, lunch, and prizes.



Additionally, there are opportunities to sponsor holes and prizes for the event. Promotion materials and merchandise to give golfers are welcomed from sponsors. Your company's name will be on signage and featured in LACN communications.

LACN has also negotiated attractive room rates at the nearby Ayres Suites Hotel in Yorba Linda. LACN room rates are \$99 per night and must be booked prior to March 12 to get this rate. To reserve a room and get the special rate, call Ayres Suites at (800) 336-0632 and mention the group code LACN.

Registration materials are attached with this edition of the Lumber Log and also available at LACN's website at [www.lumberassociation.org](http://www.lumberassociation.org). Call or e-mail Jean Henning at LACN for additional information or assistance.

Our thanks to the LACN Members who have signed up as a sponsor for the PAC Golf Event. More information on sponsorships and marketing opportunities are in the registration and sponsorship materials.

## Duane Day retires from Royal Business Forms

Royal Business Forms has announced the retirement of longtime outside sales representative, Duane Day. After more than 25 years of representing Royal Business Forms, Duane has earned the opportunity to retire and enjoy time and travel with his wife Lorraine and family.



In the retirement announcement, Royal noted "Duane was very dedicated to his customers and will miss them all very much. Royal Business Forms owes a lot of its success to the efforts of Duane. His friendly face and voice will be missed."

Royal will be announcing a new sales representative in the near future. Until a permanent replacement is announced, all questions and comments will be handled at the Royal Business Forms office at 800-255-9303.

LACN has endorsed Royal Business Forms for their products line for many years.



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### LACN ELECTRONIC PUBLICATIONS

are available to anyone in any LACN member business.

Send LACN the E-mail of anyone wanting to receive the mailings and they will be added.

E-mail lists are not sold, **shared or loaned** and are used only for LACN information.

Send any additions to: [kend@lumberassociation.org](mailto:kend@lumberassociation.org)

Publications include:

**THE LUMBER LOG**

**LACN E-UPDATE**

**LACN MEMO-NLBMDA E-UPDATE**

**LACN MEMO-GREEN UPDATE**

**LACN HR/SAFETY UPDATE**

**LACN GOVERNMENT AFFAIRS REPORT**

SEE MORE ON LACN'S WEBSITE

[www.lumberassociation.org](http://www.lumberassociation.org)

Contact LACN for password to "members only" section.



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# NLBMDA Releases 2012 National Policy Agenda for the Building Supply Industry

The National Lumber and Building Material Industry (NLBMDA) has released its national legislative and regulatory policy agenda for 2012. The document brings focus to the common interests of the industry and includes policy goals to revitalize our nation's housing and building industry.

"With the House and Senate going into the final session of the 112th Congress, many are rightly focused on reviewing and eliminating burdensome regulations, and NLBMDA will do all we can to assist

policymakers, as they pull off the wet blanket from our businesses, in order to bring about an economic recovery." said Cally Fromme, NLBMDA Chair and Executive Vice President of Zarsky Lumber in Victoria, Texas. "It is essential that Congress focus not on election year politics but on job creation and sound fiscal policies that will restore housing as the cornerstone of our national economy. This common-sense, pro-growth National Policy Agenda is a legislative and regulatory plan that can and will put the building supply industry and our nation's economy back on the path to recovery."

NLBMDA will continue to advance pro-business policies that will strengthen small businesses and protect the many multi-generational family-owned businesses in the industry. The association's agenda includes our industry's positions on housing, legal reform, workforce policy, tax policy, product supply, transportation, and energy.

NLBMDA's 2012 National Policy Agenda will be distributed to members of Congress and key Administration officials and will be used by NLBMDA members when they visit their members of Congress during the NLBMDA Spring Legislative Conference on March 5-7 in Washington, DC.

The NLBMDA 2012 National Policy Agenda can be viewed at the NLBMDA website [dealer.org](http://dealer.org).

## Decision Issued on Proposed Southern Pine Design Values

The American Lumber Standard Committee's (ALSC) Board of Review issued a decision in January on the revised designed values for Southern Pine that had been proposed in October by the Southern Pine Inspection Bureau (SPIB). The National Lumber and Building Materials dealers Association (NLBMDA) had raised serious concerns about the proposal, the method of adopting the changes, the impact on the marketplace, and the implications for planned revisions in the design values of other species of lumber.

In their action, the Board of review only addressed the pending revision in design values for Southern



Pine. Specifically the Board determined:

1. That SPIB and Timber Products Inspection had not adhered to the proper ASTM standard (D-1990) for changing design values for all Southern Pine grades, which requires sampling at least two grades and at least three widths per grade, but did follow the process for the single grade and size No. 2 2x4's, so they approved the change only for No. 2 Southern Pine 2x4's.
2. That the BoR agreed with NLBMDA that an implementation period for the change was needed and set June 1, 2012 as the date for the change in No. 2 2x4 design values.

The Board did not address NLBMDA's concerns about the process for establishing revisions in design values for all species, several of which are currently under review. The Board's decision to approve the single grade and size was also contrary to the industry consensus that all in-grade testing pursuant to D-1990 should be completed and analyzed so that any necessary changes in design change could be made once and only once.

"NLBMDA worked diligently to achieve a better outcome than the one that was proposed last October and we believe this decision, while not perfect, will help avoid major disruptions in the marketplace," said NLBMDA President Michael O'Brien. "However, questions and uncertainty remain as to what the SPIB supplement to the grade rule will include and what emphasis will be given to the Board's recommended implementation date. NLBMDA will continue to work with ALSC and other industry stakeholders to minimize additional uncertainty relative to this decision and, going forward, to establish a more orderly and transparent process for changes in design values for all species of lumber."

## 2012 LACN BOARD OF DIRECTORS

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## Political Action Committees boost industry issue awareness

The role of political action committees have been an effective means to coordinate and magnify political spending, as well as promoting the issues supported or opposed by the .lumber and building products industry. For LACN members, there are two principal political committees, LACN PAC and LUDPAC.

LACN PAC is a "state-reporting" political committee, meaning that it makes contributions to local and state-level candidates, issue campaigns, State Capitol, Sacramento caucuses and committees. No federal candidates or issues are funded from LACN PAC. Since its organization in 2001, LACN PAC has spent more than \$220,000 on nearly 130 candidates and committees.

In the past several years, increased emphasis has been placed on contributions to legislative caucuses that generally support industry and pro-business legislation and issues. LACN PAC generally spends \$25,000 in a typical campaign cycle.

LACN encourages LACN members, either from their business or individually, to make contributions to LACN PAC. Contributor cards are mailed periodically to LACN members and are also available at the LACN website. Special events at LACN conventions and meetings also generate funds. Additional information can be obtained from LACN Executive Director Ken Dunham.

## Unity Forest Products named “Business of the Year”

Enita Elphick, president of Unity Forest Products, was honored by the California Association of Enterprise Zone (CAEZ) in late 2011 as the California Business Zone “Business of the Year for 2011.” Elphick’s business, Unity Forest Products, was the first manufacturing business to open in the newly formed Yuba-Sutter Enterprise Zone in 1988. She is also the Mayor of Wheatland CA.

"I'm honored to receive this prestigious award," said Elphick. "We've built the company from the ground up – literally at my kitchen table. We've seen sustained growth over the years and that's partly due to our involvement in the enterprise zone program. There's no doubt in my mind that benefits we've realized through the program have helped us grow our business and employ more local residents."

"Enita and her team have been at the forefront of the fight to preserve enterprise zones in California," said Craig Johnson, president of CAEZ. "She and her partners are committed to creating and retaining jobs in an area of our state that suffers from record unemployment and a stagnant economy. Unity Forest Products is an example of the type of small business that will lead our economy to recovery."



## LACN membership “window clings” mailed with dues renewals materials

LACN members are receiving new two-sided “window cling” membership decals with their renewals this year, replacing the older plaques and the year stickers. The decision to change to the window display was made the LACN board last year.

“The new stickers can be placed in a front door or window of a member business, or placed in a vehicle window,” noted LACN Executive Director Ken Dunham. “Cost was a factor in the move plus that the plaques were often not real visible in an business. This also gets the LACN name and message often in a more noticeable location.”

Any LACN member wanting more of the clings for multiple entrances, vehicles or other uses, contact LACN. They are available at no charge.



### ***UPCOMING EVENTS TO GET ON YOUR CALENDAR!***

**March 1 – Second Growth Dinner & Program, Buena Park**

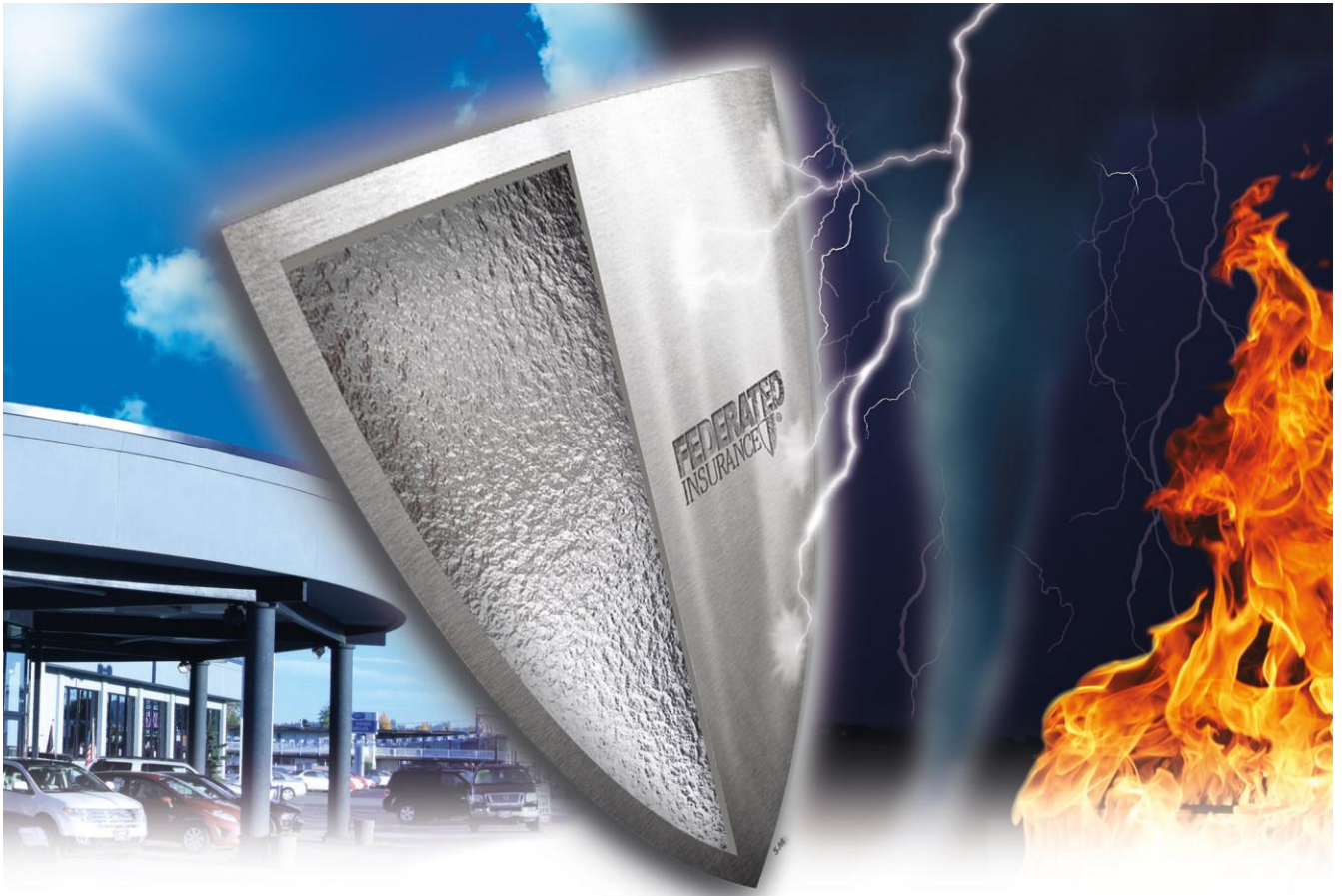
**April 12 – LACN PAC Golf Tournament, Yorba Linda**

**June 7 – LACN Associates-Dealers Golf Tournament, Fairfield**

**July 19-20 – Second Growth summer Conference, Palm Desert**

**October 18-19 – LACN ANNUAL CONVENTION, Monterey**

**More information and registration in LACN publications and at  
[www.lumberassociation.org](http://www.lumberassociation.org)**



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# SPECIAL REPORT TO THE LUMBER LOG

## LEGISLATIVE CHANGES AFFECTING THE CONSTRUCTION INDUSTRY EFFECTIVE JULY 1, 2012

By Sam K. Abdulaziz  
& Kenneth S. Grossbart  
Abdulaziz, Grossbart & Rudman

As discussed in the last article we wrote on the subject, The California Law Revision Commission and the Legislature have worked for many years to revamp the Mechanic's Lien, Stop Notice and Payment Bond process. SB 189 became law in 2010, and SB 190 became law in 2011, which cleans up SB 189. They both go into effect July 1, 2012. The changes are not very substantive to the entire process, but there are many of them and they will all need to be complied with. This article is meant to be a very brief overview of the items that are changing July 1, 2012.

The biggest change is the statutory reference changes. The Civil Code sections that deal with Mechanic's Liens, Stop Notices and Payment Bonds have been completely renumbered. As an example, the information currently found Civil Code section 3081.1 will be found in the new Civil Code sections 8014 and 8300 after July 1, 2012.

Some of the common terms that the industry is used to dealing with have been redefined in the statutes. Effective July 1, 2012, "materialman" will be "material supplier"; "original contractor" will be "direct contractor"; "Stop Notice" will be "Stop Payment Notice". In addition, the definition of a contract has been broadened. If the contract is with the "direct contractor" it will be called a "direct contract". Lastly, the definition of a "design professional" will include a licensed landscape architect effective July 1, 2012.

The "Preliminary 20-Day Notice" will simply be referred to as a "Preliminary Notice". The private works Preliminary Notice will have new language for the Notice to Property Owner effective July 1, 2012. This language can be found in the new Civil Code section 8202 or on our website.

The waiver and lien releases have been completely re-written by the new legislation. The statute indicates that "the waiver and release shall be null, void, and unenforceable unless it is in substantially the following form:" and proceeds to have the suggested text for each waiver. We believe it is better to be safe rather than risk the waivers and releases being unenforceable and use the exact same language provided in the statutes. The Conditional Waiver and Release on Progress Payment, Conditional Waiver and Release on Final Payment; Unconditional Waiver and Release on Progress Payment and Unconditional Waiver and Release on Final Payment can be found in the new Civil Code section 8132, 8134, 8136 and 8138 or on our website.

Effective July 1, 2012, an owner, including a public entity, will have 15 days after the date of completion of a work of improvement in order to record a Notice of Completion. The owner currently has 10 days. Additionally, if the Notice of Completion contains an erroneous statement of the date of completion, it will not affect the effectiveness of the Notice if the true date of completion is 15 days or less before the date of recordation of the notice.

The new Civil Code section 8180 no longer recognizes acceptance by the owner as an event that constitutes completion in private works.

The Notice of Extension of Credit statute is currently not very clear as to who must execute the Notice of Extension of Credit. Effective July 1, 2012, there is some clarification and the new Civil Code section 8460 explicitly provides that both the contractor (the claimant of the Mechanic's Lien) and the owner must sign the Notice of Extension of Credit and have it notarized before recording. The statute also specifies the exact additional time granted to file the suit to foreclose. The Notice of Extension of Credit will also be able to be recorded after the expiration of the Mechanic's Lien if it is recorded before any purchaser or encumbrancer for value acquires rights.

There are slight changes to the language of the Mechanics Lien Warning that is required on Home Improvement Contracts as per Business and Professions Code section 7159 and there is now a different Mechanics Lien Warning for New Residential Contracts as per Business and Professions Code section 7164.

Also in Business and Professions Code section 7159, the spelling of "Down Payment" which is in the contract twice, has been changed to read as one word so it should now be "Downpayment".

There have also been slight changes to both the Three-Day Right to Cancel and the Seven-Day Right to

Cancel language that are to be a part of the Home Improvement Contract as per Business and Professions Code section 7159. You can review the language in the statutes or visit our website.

With respect to public utilities, the “direct” contractor will be required to pay a subcontractor the amount allowed to the direct contractor on account of the work performed by the subcontractor to the extent of the subcontractor’s interest in work within 21 calendar days of a progress payment from the public utility; this is changed from 15 working days.

A public entity shall give notice to a claimant that has given a Stop Payment Notice of the time within which an action to enforce payment of the claim stated in the Stop Payment Notice must be commenced if the claimant paid the public entity ten dollars (\$10) at the time of giving the Stop Payment Notice.

As you can see, there are many things that SB 189 and SB 190 changes regarding Mechanic’s Liens, Stop Notices, and Bonds, and this is just a very brief overview. For more information, please visit our website at [www.agrlaw.com](http://www.agrlaw.com). We plan on having new information up by the New Year.

**Lastly, the above changes are effective July 1, 2012. You still have some time, but there is no grace period on compliance, so make sure to get the forms and contracts that you may need beforehand.**

Sam Abdulaziz has been practicing construction law for over 35 years, and is considered one of the premiere experts in construction law, including California contracting license laws. He is the author of “California Construction Law.” Kenneth Grossbart is recognized as one of the foremost authorities in California construction law. Over the past 30 years, Ken has become a respected speaker on Mechanic’s Liens and other construction related issues. Abdulaziz, Grossbart & Rudman provides this information as a service to its friends & clients and it does not establish an attorney-client relationship with the reader. This document is of a general nature and is not a substitute for legal advice. Since laws change frequently, contact an attorney before using this information. Ken Grossbart and Sam Abdulaziz can be reached at Abdulaziz, Grossbart & Rudman: (818)

Note: The preceding article was provided by the firm of Abdulaziz, Grossbart & Rudman. The firm has provided seminars for LACN in the past.

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Erik Plantenberg, Regional Marketing Manager

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#### **No Business Interruption Coverage**

A business sustained widespread fire damage to its building and personal property. Due to the extent of the fire, the owners had no choice but to suspend operations for several months until repairs were made. Their business expenses continued to pile up with the long disruption—payroll, mortgage, interest on inventory, employee benefits—and they were hit with large lost profits.

Also available under most business income forms is Extra Expense coverage. Extra Expense coverage reimburses you for expenses incurred to avoid or minimize the suspension of your business.

Business Interruption coverage (and Extra Expense) was not included in their insurance program because they hadn’t identified it as a significant risk to the business. Even though their building was repaired and personal property replaced, the business still struggles to survive.

A couple of provisions found in most business income forms to be aware of:

- **Waiting Period provisions.** The waiting period is normally 72 hours from the time of the loss and normally does not apply to the Extra Expense coverage. Amounts incurred during the waiting period will not be included in calculating the business income loss.
- **Specifically Scheduled locations.** Business income (and extra expense) forms typically require damage to occur at a scheduled location for coverage to apply.
  - Damage to a utility or to the supply lines that provide various forms of energy to your location are not normally covered under the form. Coverage for this exposure may not be readily available or cost prohibitive in certain areas of the country. When coverage is available it is typically termed Utility Services – Time Element.
  - You may also experience a loss of income when there is damage to a non-owned location which you depend on to produce revenue. Coverage termed Business Income from Dependent Properties is typically available for this exposure. Typically four types of dependent properties are eligible for the coverage:
    1. Contributing locations (supplies parts, materials or services to allow you to manufacture your product or provide your service)
    2. Recipient Locations
    3. Manufacturing Locations; and
    4. Leader Locations (business that draws customers to your area).

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Federated Insurance is endorsed by LACN for property & casualty needs and financial protection services. For more information, contact LACN at 800/266-4344

## U.S. District Court vacates delay notice on boiler MACT rule

A U.S. District Court judge has vacated the "Delay Notice" of the proposed Boiler Maximum Achievable Control Technology (MACT) standar. By ruling in favor of the Sierra Club in its case against the Environmental Protection Agency (EPA), Judge Paul Friedman stated that the Delay Notice was "arbitrary and capricious." The court's decision reinstates the compliance deadlines set in the final rule, which require owners and operators of existing sources to install MACT to meet the standards three years after the rule was published on March 21, 2011.

Owners and operators of existing facilities that were required to meet best practice standards and perform tune-ups must comply with the rules by March 21, 2012. EPA proposed changes to the rules in December that increase "the flexibility, consistency and achievability of these standards." Public comments on that proposed rule are due on February 21.

Both the House and Senate have introduced the EPA Regulatory Relief Act (H.R. 2250 and S. 1392) to delay implementation of the MACT Rules at least 15 months. The House version passed on October 13 by a vote of 275 to 142, but the Senate has yet to vote on its bill.

## NEW MEMBERS

**LUMBER ASSOCIATION OF CALIFORNIA & NEVADA**

### Elk Creek Forest Products

McMinnville, OR

Brett Slaughter, President

Jim Sondergaard, Distribution/Sales

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## U.S. and Canada Reach Two-Year Extension of Softwood Lumber Agreement

On January 23, United States Trade Representative Ron Kirk and the Canadian Minister for International Trade signed a two-year extension of the 2006 U.S.-Canada Softwood Lumber Agreement (SLA), making the Agreement effective through October 12, 2015.

As part of the original SLA agreement reached in October 2006, the U.S. agreed to cease imposing antidumping and countervailing duties upon softwood lumber from Canada. In exchange, Canada agreed, among other things, to apply export measures – export charges and volume limitations – to shipments of softwood lumber from Canada to the U.S. when the price of softwood products falls below a certain level. The United States has brought three disputes under the SLA to ensure its proper implementation.



Vic Hausmaninger, CEO

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***“Immediate Action” Alert:***

**Senate Bill 459 on 1099 Workers**

<http://hbla.com/news/pressrelease.aspx>

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## Consumer survey projects increase in LBM purchases in 2012

Pulse Research has released the results of the just concluded Quarter 4: 2011 Pulse of America lumber consumer shopping survey with an almost 6,000-sample from all 50 states. After four plus years of challenging times for local lumber yards, there is finally some encouraging news across many important housing industry indicators.

The Pulse of America consumer shopping survey predicts an improving of the economy. Consumer confidence has increased 28% from the last quarter to the current quarter; going from 18% being positive that the economy will remain stable over the next 6 months to 23%. More important, home owner confidence that their home value will remain stable increased 8%.

Planned shopping in the next 12 months at a building supply/lumber yard increased 16%, kitchen and bath store planned shopping also increased 16%, while window store planned shopping increased 11% over Q3: 2011.

Remodeling plans for the next 12 months are also trending up; general remodeling up 8.8%, remodel bath up 9%, with no change in kitchen remodeling plans over the next 6 months. During the last 90 days, key lumber yard product purchasing plans have also increased; decking purchasing plans is up 6%, interior paint is up 12%, roofing up 15%, fencing up 21%, but kitchen cabinet purchasing plans is projected to be down.