

CORNERSTONE

The News of the Home Builders Association of West Florida

July 2015

10 Code Proposals with Big Price Tags

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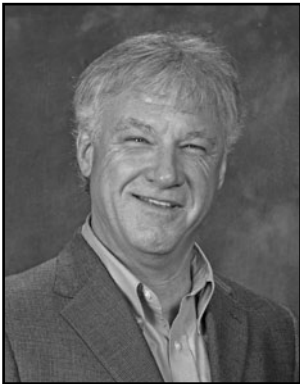
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*The official magazine of the
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**Next Issue:
August
2015**

Edit: July 1, 2015
Space: July 17, 2015
Materials: July 24, 2015

Magazine Design & Layout by
warren wight creative services
www.warrenworld.com



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Cornerstone, the monthly publication of the Home Builders Association of West Florida serving Escambia and Santa Rosa Counties, is published monthly, twelve (12x) per year. Send address changes to HBA of West Florida, 4400 Bayou Boulevard, Suite 45, Pensacola, Florida 32503-1910. Cornerstone, is published in the interests of all segments of the home building industry and is distributed to its members and others associated with the HBA of West Florida. HBA of West Florida and Richard K. Nicholson Pub., Inc. does not accept responsibility for, or endorse any statement or claims made by advertisers or authors of any articles. Every effort has been made to assure accuracy of information, but authenticity cannot be guaranteed. No part of this publication may be reproduced without the written consent of Home Builders Association of West Florida, Copyright ©, 4400 Bayou Boulevard, Suite 45, Pensacola, Florida 32503-1910, 850.476.0318. Advertisers and advertorials in Cornerstone do not constitute an offer for sale in states where prohibited by law.

FLORIDA HOME BUILDERS ASSOCIATION WORKS FOR YOUR BENEFIT DURING SPECIAL SESSION

As of the deadline to print in this issue of *Cornerstone*, the Florida House and Senate have agreed to delaying the blower door testing, mechanical ventilation, and secondary fire elevator for high-rises. This action is not final. The education portion of the budget is still under discussion. Once all items have been agreed to, the budget will be presented at least 72 hours prior to final action by the legislature. Lastly, a gubernatorial review is required. There was consensus that additional time is necessary to ensure the market possess enough testers, that builders understand what building practices are necessary to pass the blower door tests, and study more thoroughly whether or not the mechanical ventilation requirements established by the ICC are appropriate for Florida's hot, humid climate. The implementing bill contains language delaying all three provisions until June 30, 2016. FHBA lobbied for a delay until April 1, 2016, but legislative staff writing the budget insisted the delay last for the duration of the implementing bill (1 year). The delay is tied to a budget item allocating up-to \$35,000 to study the economic consequences of these three issues.

Other FHBA issues that are being considered:

- **Sadowski Funding:** Total funding for Sadowski is \$171,000.
- **Septic Tank Study:** \$10,000 has been allocated to the study with language prohibiting the Department of Health from passing rules until the study is completed.
- **Building Code Compliance and Mitigation Program:** \$925,000 was provided. This helps fund the for Building a Safer Florida Grants.
- **Unlicensed Contractor Activity Enforcement:** \$250,000, the same as last year.

Please keep in mind, the provisions in the bill are only a delay of three specific building code sections. The remainder of the code will become effective June 30, 2015. Do not forgo education on the remainder of the code and take the opportunity now to be educated on best building practices to ensure passage of the blower door test, which will be required effective June 30, 2016.

Members have expressed concerns about other provisions of the code.

Stucco: One of the many provisions in the 2015 code, effective June 30, references ASTM 926, *Standard Specifications for Application of Portland Cement-Based Plaster* and contains new requirements specifying minimum curing times between stucco applications. These requirements appear to be in conflict. FHBA will be seeking a declaratory statement resolving this issue and clarifying that the ASTM 926 standard can be used at the earliest possible opportunity (the August meeting of the Florida Building Commission).

Zero-Lot-Lines: The code requires certain fire resistant materials or sprinklers. These provisions dramatically impact those zero-lot-line communities which have already been platted. The FHBA Governmental Affairs Committee and the Codes Task Force will both meet during the Southeast Building Conference (SEBC) and discuss a potential fix. A fix may be possible by petitioning your local building officials.

Governor Signs Into Law Two FHBA Priorities

In other legislative news, Governor Rick Scott signed into law two FHBA Legislative priorities. HB 1151, by Rep. Ingoglia and Sen. Brandes, requires that a local government must establish a residential master building permit program within six months of receipt of a written request from a licensed general, building or residential contractor. This bill achieves standardization, streamlines development, and reduces time spent by local building departments during the building permit application process. In short, it makes it easier to build multiple houses using the same floorplans. HB 383, by Reps. Edwards, Reps. Perry, and Sen. Diaz de la Portilla, requires that local government demands for cash, land or other exactions at the time of permitting must be relational and proportional. The bill creates a cause of action for damages caused by an unconstitutional exaction of property in this state. This is a codification of the US Supreme Court decision known as the "Koontz" case.

President's Message



SHELBY JOHNSON

“Do not forgo education on the remainder of the code and take the opportunity now to be educated on best building practices...”

10 Code Proposals with Big Price Tags

There are dozens of proposals to change the next edition of the International Code Council's model codes that have a particularly big impact on home building practices and on builders' bottom lines.

Here are 10 examples — and 10 reasons to talk to your code officials who will vote on these proposals at the ICC Public Comment Hearings or online during the Governmental Consensus Voting Period this fall.

G226-15 – Fire Prevention Superintendent: *This proposal would require a fire prevention superintendent from an approved agency to be present 24/7 during construction of all Type V buildings.*

If this is approved, add another independent third-party inspector to your budget.

Requested Final Action: Disapprove

G230-15 – Sprinklers during Construction: *This proposal would require the fire sprinkler system be completed, tested and approved before construction can continue above 40 feet in height for all buildings of Type III, IV and V construction. This is an impractical and onerous requirement that will add significant cost and drastically change the order in which utilities are brought to the site.*

Requested Final Action: Disapprove

G162-15 – Horizontal Separation: *This proposal would require a 50-foot separation distance from Type V buildings (with light-frame wood construction) above a horizontal separation to lot lines or adjoining buildings on the same lot. The result: Low-rise multifamily and mixed-use buildings consisting of several floors of wood framing over top of a concrete or steel “podium” and constructed using the International Building Code would have to be built at least 100 feet apart from each other, not very plausible for infill developments in urban and close suburban neighborhoods.*

Requested Final Action: Disapprove

G128-15 – High-Risk Areas: *This proposal limits the height, area and number of stories of in buildings with automatic fire sprinklers located in high-seismic, flood hazard or hurricane-prone regions, to the same limits as unsprinklered buildings.*

The proposal (and several similar proposals) claims to promote resilient construction, but is not based on sound science, nor does it reflect a broad consensus of stakeholders. Where adopted, followed and enforced, the Inter-

national Building Code does an excellent job of providing strong, resilient buildings.

FS176-15 – Foam Plastic Insulation: Exterior Walls: *This proposal adds a new section that requires a thermal barrier to be installed on exterior side of foam plastics 1/2-inch thick or greater used in exterior walls.*

Another layer of gypsum or other material not only adds more costs, but it means a lot of significant design changes from the width of a window sill to the size of the doorjamb.

Requested Final Action: Disapprove

S10-15 – Special Inspections: *This proposal would require special inspections for firestops, fire-resistant joint systems and perimeter fire barrier systems on all buildings over two stories. Building inspectors already do these inspections as part of their regular duties. Paying for an additional inspection just costs more money without ensuring additional safety.*

Requested Final Action: Disapprove

EB13-15 & EB34-15 – Accessibility: *These proposals would allow changes to existing buildings to comply with the 2009 edition of ICC A117.1 instead of the upcoming edition, which includes such changes as increasing the turning diameter from 60 inches to 67 inches and the clear floor space from 30 x 48 inches to 30 x 52 inches.*

This is the first time that the A117.1 standard has deviated from the original federal accessibility regulations, and therefore the issue needs to be addressed in the case of existing buildings. The concept of allowing existing buildings to conform to past accessibility requirements is not new: It has already been established in the Fair Housing Act, and it is logical that the building code follows suit.

Requested Final Action: Approve as Submitted

M85-15 – Flexible Duct Length: *This code change proposal limits flexible duct lengths to a 5-foot maximum.*

The proposed limit will impact the ability to install flexible ducts in attics and in locations poorly suited for rigid ductwork. The change will also increase the cost of typical installations.

Requested Final Action: Disapprove

P101-15 Part I and II – Size of water service pipe: *This proposal will increase the minimum size of water service piping from 3/4 inch to 1 inch in diameter for both the International Plumbing Code and the International Residential Code.*

This is a solution looking for a problem that doesn't exist. Modern fixtures have decreased water consumption, lowering peak demand in older homes. If sprinklers are required, they frequently have a separate tap and need to be properly sized based on the application, not an arbitrary diameter. The additional fee for the larger connection varies by jurisdiction, in some cases the cost increase can be in excess of \$2,000.

Requested Final Action: Disapprove

RM32-15 –Return air plenums: *This proposal would remove the ability to use a stud wall or floor joists cavity for return air plenums.*

This would prevent a traditional and effective construction practice without any data to support the change. Currently there is no requirement to have any return ducting. The existing code allows for panned return air plenum that provide a more effective path back to the air handler than no return. No reason to change the code.

Requested Final Action: Disapprove

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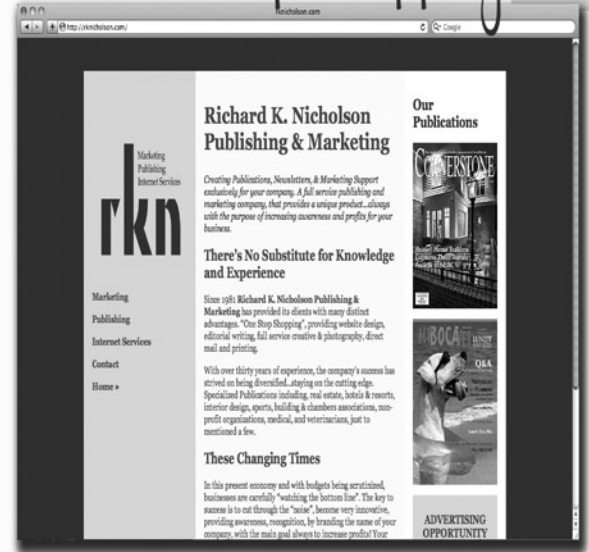
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NAHB Keeps the Wheels Turning

A strong housing industry is key to our nation's economic recovery. And when lawmakers and bureaucrats try to chip away at your profits with wrong-headed or just plain expensive rules, NAHB is here to make sure that you aren't regulated out of business.

Here's what we've been working on so far this year.

These dollar values represent the **savings per housing start** a typical builder will see as a result of select NAHB advocacy victories in 2014. Some members will experience more of these benefits than others, depending on location and market segment.

Learn more at valueofnabh.org

\$1,281

Farm Bill generates additional home building and remodeling.

\$669

EPA drops post-construction stormwater rule.

\$813

U.S. Supreme Court Clean Air Act ruling benefits multifamily builders.

\$1,477

Keeping costly provisions out of building codes saves construction costs.

\$1,132

Homeowner Flood Insurance Affordability Act saves business for builders and remodelers.



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A much anticipated event for area homeowners and homebuyers, the 2015 West Florida Home & Product Expo, set for August 21-23, at the Pensacola Bay Center.

Over 20,000 square-feet of building, remodeling, products and services are on display from over 80 local and regional businesses.

“If you are looking to remodel or if you’re thinking about building a new home, then this is the show for you,” said Expo Show Manager Vicki Pelletier. “In addition, attendees can learn a lot about new products and services from knowledgeable exhibitors that will enable them to make wise decisions when it comes to buying products for their home.”

The Home & Products Expo is a one-stop source for information from air conditioners, ICF construction and flooring materials to homes insulation, energy efficient windows and doors, pool and patio furniture, garage doors, and green products and services, just to name a few.

“The Expo had built a solid reputation for providing the best in building products and services, said Expo Volunteer Chair Ron Castner of Castner Construction. “For people interested in reaching building professionals who treat you with courtesy, and will take time to answer questions, then the Expo is the place to be.”

The Expo is brought to you by: Gulf Power/EarthCents, Cox Communications, Pensacola News Journal, Pensacola Home & Garden, WEAR TV 3, My 35 WFGX, NASH FM 102.7, WCOA 1370, Soft Rock 94.1

For more information, contact the Home Builders Association of West Florida at 476-0318 or go to www.HomeExpoPensacola.com.



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Vicki Pelletier
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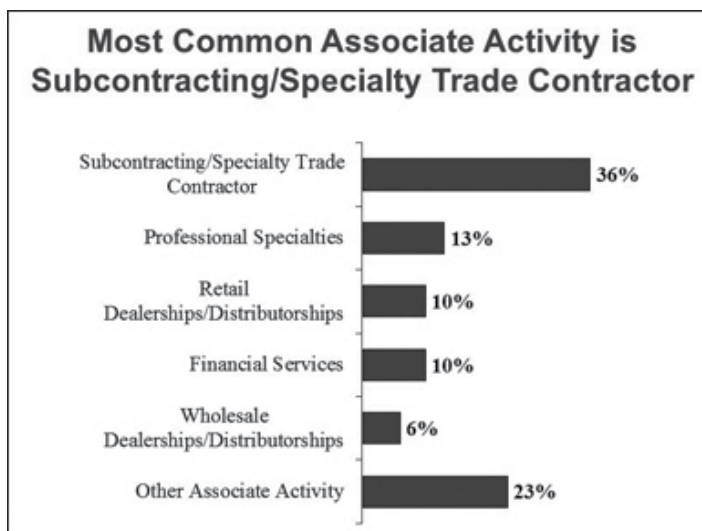
Ron Casnter
Expo Chairman

Small Companies Dominate NAHB Membership

NAHB's recently published 2014 Membership Census shows that members' businesses are improving from the worst effects of the housing market downturn. It also refutes previous speculation that the composition of the membership might change permanently as a result of the Great Recession.

The typical NAHB builder member today is a 56-year-old small business owner whose company constructs one to 10 housing units a year and has fewer than a dozen employees, the census indicates.

About one-third (32%) of NAHB's 140,000 members are in the Builder category. This means their primary business is single-family construction, multifamily construction, remodeling, land development, commercial building or the manufacture of modular, panelized or log homes.



The rest (68%) work in a wide range of housing industry areas. These Associate members typically include subcontractors and people in fields such as finance, sales and marketing, design and manufacturing.

That broad profile of the NAHB membership hasn't changed significantly in years. However, the impact of the Great Recession and slow housing market recovery is evident in some details of the membership census.

In 2014, the majority of NAHB's Builder members (62%) listed single-family building as their primary business activity. Another 22% cited residential remodeling as their primary business activity. Land development was cited by 5%. Both commercial building and multifamily construction were listed by 4% of members as their primary business activity. The remainder of builder members were involved in commercial remodeling and modular, panelized or log home manufacturing.

2014 marks the first time since 2008 that more than 60% of builder members have identified their primary activity as single-family construction. The number dropped from

66% in 2008 to 58% in 2009, and remained below 60% from 2009 through 2013 as members shifted their efforts away from home construction in response to market conditions. During that same time period, the number of builders citing remodeling as their primary business activity increased from 19% in 2008 to 25% in 2009 and 2010. It peaked at 28% in 2011 before dropping by 2% annually in 2012 and 2013. Last year, 22% of builders said their primary activity was remodeling.

More Starts and Higher Revenues

The majority of NAHB's Builder members (61%) reported constructing 10 units or less last year; for the second consecutive year, the median number of housing starts per firm was five. The median had dropped to three from 2009 through 2011 before rising to four in 2012.

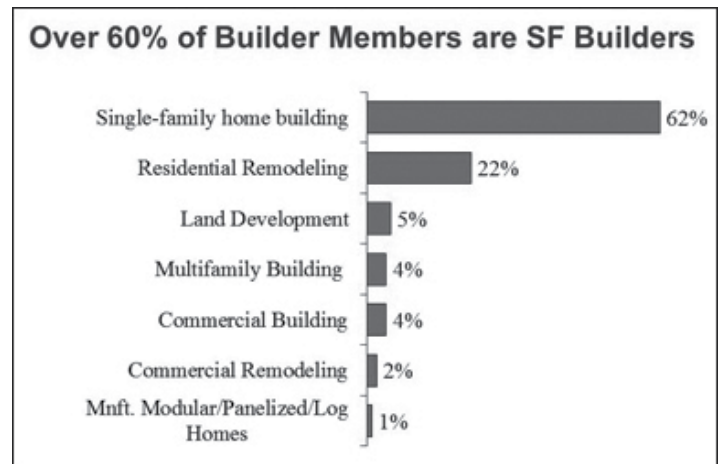
The impact of the recession and subsequent recovery is particularly evident in builders' annual revenue, which doubled between 2012 and 2014. The median last year was \$2.2 million, double the \$1.1 million reported in 2012. The median revenue was below \$1.0 million annually from 2008 through 2011.

As in the past, NAHB's Builder membership continues to be predominantly male (94%). At 21%, the share of women is significantly higher among manufacturers of modular, panelized and log homes than among all other types of Builder members, where the share of women is 7% or less.

Associates Represent Wide Range of Professions

About a third (36%) of all Associates are subcontractors or specialty trade contractors such as carpenters, electricians and plumbers. Another 13% work in various professional specialty fields such as engineering and architecture, and 10% are involved in retail dealerships or distributorships.

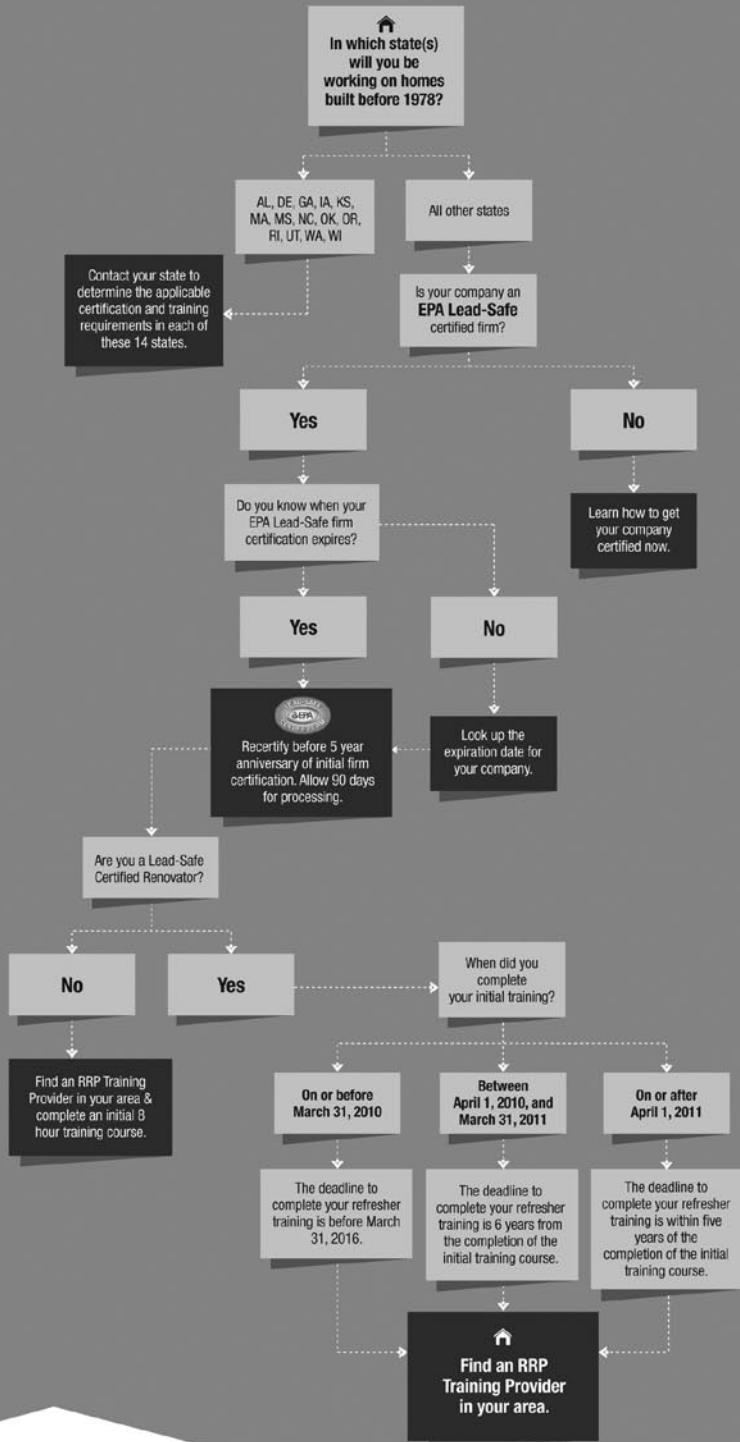
About 10% work in financial services, and another 6% are wholesale dealers or distributors. The remainder of associates (23%) work in a broad range of "other" areas including such diverse fields as property management, manufacturing and utilities. They are predominantly small businesses with a median of nine employees.



The ranks of Associates are also predominantly male. However, considerably more Associate members (20%) are women. Slightly younger than Builder members with a median age of 54, Associates also reported increasing revenues. The median annual revenue for Associate members' companies increased by 60%, from \$1.28 million to \$2.04 million between 2012 and 2014.

What You Need to Know About EPA Lead-Safe Recertification

If you will be working on homes built before 1978 or child-occupied facilities, use this chart to determine the training and certification requirements you must meet to comply with the EPA Lead: Renovation, Repair and Painting rule. Click on the purple boxes for more recertification resources and visit nahb.org/leadpaint for lead-based paint news and information.



EPA and Corps Water Rule Fails to Follow Intent of Congress and Supreme Court Precedent

The National Association of Home Builders (NAHB), in early June, told Congress that the final rule redefining the scope of waters protected under the Clean Water Act by the Environmental Protection Agency and U.S. Army Corps of Engineers falls well short of providing the clarity and certainty that the regulated community seeks.

Testifying on behalf of NAHB before the House Science, Space and Technology Committee, Bob Kerr, president of Kerr Environmental Services, an environmental consulting and water resources engineering firm based in Virginia Beach, Va., said the rule fails to follow the intent of Congress and Supreme Court precedent, and it does not acknowledge the states' role in regulating their own waters.

"This rule will increase federal regulatory power over private property and will lead to increased permit requirements, project delays and avoidance and mitigation costs," said Kerr. "Equally important, these changes will not significantly improve water quality because much of the rule improperly encompasses water features that the states already have the authority to regulate."

The rule, which will go into effect by mid-August, establishes a broad definition of tributaries which, for the first time, includes ditches. It will also allow federal agencies to regulate adjacent non-wetlands located more than a quarter-mile from a traditional navigable water and isolated ponds located within the 100-year floodplain.

Kerr expressed concern that the increased regulation under the new rule will harm his business because the additional layers of red tape will add more time and money to projects he takes on. Moreover, his firm no longer offers clients a fixed rate to obtain an expedited Section 404 Nationwide Permit because it is too difficult to secure those permits in a predictable length of time. This new rule only exacerbates this situation.

"Not knowing their permitting costs in advance increases the financial risk for my clients," he said. "In some cases, they will decide not to pursue projects as a result. That is not good for my business."

Stating that the Supreme Court has twice affirmed that the Clean Water Act places limits on federal authority and that the rule permits the federal government to supplant the role of the states in regulating intrastate waters, Kerr called on Congress to act now.

The House recently passed legislation that would force the EPA and the Corps to withdraw this rule and develop a new plan after the agencies go back and consult with state and local governments, conduct discussions with small business stakeholders as mandated under the Regulatory Flexibility Act, and produce an accurate cost-benefit analysis.

Companion legislation, S. 1140, the Federal Water Quality Protection Act, is pending in the Senate. "Enacting the Senate bill gets us back on track to where we need to be, which is establishing a workable and sound definition of 'waters of the United States,'" said Kerr.

Business Overtime Expenses Could Soon Skyrocket

The U.S. Department of Labor is likely to release a draft regulation later this month that would increase the federal overtime salary threshold from the current \$23,660 to \$50,440, which could impact just under 20,000 residential construction supervisors according to preliminary estimates from NAHB economists.

NAHB, along with our broad-based coalition of business organizations known as the Partnership to Protect Workplace Opportunity, met with the White House last week to express our concern about the impending rule.

The House Education and Workforce Committee held a hearing on this issue today and NAHB sent a letter to lawmakers stating that such a unilateral action by the administration could raise wage costs and result in fewer jobs.

“NAHB is concerned that changes to the current overtime standard will reduce job-advancement opportunities and the hours of full-time construction supervisors, leading to construction delays, increased costs and less affordable housing options for consumers,” the letter stated.

Under current law, workers who earn less than \$23,660 a year are considered non-exempt employees by the Department of Labor and employers must pay them time-and-a-half for any hours they work over a traditional 40-hour work week. The administration has directed the Department of Labor to update the administrative/executive exemption to overtime requirements.

With the Department of Labor reportedly considering more than doubling this overtime threshold to over \$50,000, NAHB and others in the business community argue that such a dramatic surge is unlikely to result in an increase in work-



ers' take-home pay. Rather, it would force business owners to structure their workforce to compensate by scaling back on pay and benefits, as well as cutting hours to avoid the overtime requirements.

NAHB continues to monitor the situation closely.

For more information, email Suzanne Beall at NAHB or call her at 800-368-5242 x8407.

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Marketing Techniques That Will Help You Close More Sales

At the intersection of sales and marketing lies this reality: Sales is tough, but it's made even more difficult when potential customers haven't heard of your company or its offerings. In most cases, these two business levers—sales and marketing—need to be pulled together to be most effective. Here are four steps that can help you create new leads and keep existing leads warm. Whether you are selling and marketing new homes, remodeling services, or your own business's services, these tips should come in handy.

CREATE A TOP RELATIONSHIP LIST

One of the first and most important steps in the marketing process is knowing your target audience. Things to consider when determining your potential buyers include their income, location, household size, career, and recent life events or changes. If you sell products or services to other companies, be mindful of the customer's potential revenue, location, number of employees, industry, customer base, and any recent changes to the business. Once you have a list, narrow it down to top prospects. Find a balance between a pool that is small enough to be focused, yet large enough to meet revenue goals.

TAILOR YOUR APPROACH

The research does not stop after you've identified your target market. Avoid sending a scripted message that simply lists your products or services — anyone can do that. After identifying your top prospects, uncover everything you can about the challenges they may be facing.

For a home buyer, that could

mean discovering why they could benefit from a new home: lower utility bills thanks to the green building features of a new home, more bedrooms for a growing family or fewer bedrooms for empty nesters. For a company that you are targeting to buy your services, their challenges might be an industry upswing (understanding strategic growth) or downturn (managing revenue goals), human capital issues, and market competition. Once you understand the customer, you begin to see the unmet needs.

Armed with this information, you can tailor your messages to them in a way that truly resonates by addressing their needs. If you are not able to uncover anything truly specific, put feelers out to your network and ask around. Any insight will allow you to set

how it relates to them. Remember, people want to talk about themselves. Positioning the call as a time for you to learn about their challenges and how they relate to the research or article you sent them is a much more productive introduction than taking their time to sell your products and services.

Remember to track what you send. Taking note will help you avoid sending the same people the same article more than once.

NURTURE THE RELATIONSHIP TO CLOSE THE SALE

When your ultimate goal is to build a relationship and be a problem-solver for your customer, you position yourself as a trusted advisor. By focusing on building a relationship before



yourself up as someone who can help solve their specific challenges and help them reach their goals.

USE MARKETING COLLATERAL TO AVOID COLD CALLS

Put your research to work by regularly sending relevant content to your target audiences. Share an interesting article or a link to helpful research on a pertinent topic. The key is to deliver something that is relevant to them. When using marketing collateral to initiate a conversation, it provides a more natural opportunity and conversation starter for a follow-up call to a prospective client.

Let them know you would like to discuss the content you shared and

attempting to sell, you create a non-threatening common ground for open and frequent conversations — and therefore opportunities to sell more effectively.

Across hundreds of sales organizations, we consistently find that the most effective sales teams are not the ones telling the customer what they can do. The best sales teams ask the customer relevant questions. They do their homework, and they approach the customer's challenge from multiple perspectives — with questions, not assertions.

This is an excerpt from an article featured in the May/June issue of Sales + Marketing Ideas magazine.

Key Victory for Builders in Insurance Coverage Case

In a resounding victory for builders who obtain construction general liability insurance to protect themselves from property damage arising out of inadvertent and alleged construction defects, the U.S. Court of Appeals for the 11th Circuit on June 10 reversed a lower court ruling in the case of *Pennsylvania National Mutual Casualty Insurance Co. v St. Catherine of Siena Parish*. The 11th Circuit covers Alabama, Florida and Georgia.

St. Catherine had contracted with Kiker Corp. to re-roof two of its buildings. Later the roofs began leaking and St. Catherine hired an inspector who found construction defects and installation errors concerning the shingles.

St. Catherine subsequently filed suit against Kiker, alleging that Kiker breached the implied warranty in the parties' contract to repair the parish's roof using reasonable skill. Following a jury verdict, St. Catherine's was awarded \$350,000 from Kiker.

At issue was whether Pennsylvania National, Kiker's commercial general liability insurer, was required to indemnify the parish. Penn National argued there was

no coverage under the policy because the contractual liability exclusion in the insurance policy barred coverage for the parish's breach of contract claim alleging a breach of the implied warranty in the contract.

A federal court in Alabama on April 25 upheld Penn National's claim that it did not have to pay damages in the case.

When the case went to the 11th Circuit on appeal, NAHB filed an amicus brief in support of St. Catherine, urging the appellate court to disapprove the district court's ruling. NAHB argued that it was contrary to the Alabama Supreme Court's most recent interpretation of the exclusion in *Townsend Ford v. Auto-Owners Ins. Co.*, a 1995 case wherein the state Supreme Court held that the exclusion only applies to indemnity liability, where the liability is contractually assumed, and not liability arising from a breach of warranty.

Citing the *Townsend Ford* case, the 11th Circuit agreed with NAHB and held that the parish's breach of contract claim based on the contractor's breach of warranty did not fall within the contractual liability exclusion and reaffirmed that such an exclusion bars coverage only where the insured agreed to indemnify another party.

Importantly, the 11th Circuit held the Supreme Court of Alabama's logic in *Townsend Ford* applied regardless of whether the injured party brings a breach of contract claim based on the breach of an express or implied warranty. In *Townsend Ford*, the injured party sued the insured for breach of an express warranty, while the parish sued the contractor for breach of an implied warranty. Penn. National claimed that this was an important distinction but the 11th Circuit concluded that this was not so.

The 11th Circuit case follows the favorable decision for builders handed down by the Fifth Circuit Court of Appeals in October 2014, in *Crownover v. Mid-Continent Casualty Co.*

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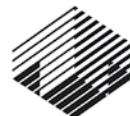
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