

## Amendment No. 788

Assembly Amendment to Assembly Bill No. 432 First Reprint (BDR 54-136)

**Proposed by:** Assembly Committee on Ways and Means**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 432 (§§ 20, 22).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

CAF/JRS



Date: 5/28/2011

A.B. No. 432—Enacts provisions relating to energy auditors. (BDR 54-136)



ASSEMBLY BILL NO. 432—ASSEMBLYWOMEN  
KIRKPATRICK AND BENITEZ-THOMPSON

MARCH 21, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Enacts provisions relating to energy auditors. (BDR 54-136)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for  
Term of Imprisonment in County or City Jail or Detention  
Facility.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to energy auditors; establishing the qualifications for an energy auditor; providing for the licensure of energy auditors by the Real Estate Division of the Department of Business and Industry; establishing the requirements with which an energy auditor must comply when conducting an energy audit; repealing provisions that require the Nevada Energy Commissioner to establish a program for evaluating the energy consumption of residential property in this State; making an appropriation; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the Nevada Energy Commissioner to establish a program for evaluating energy consumption in residential property in this State and requires a seller to provide a copy of this evaluation to a purchaser of his or her property. (NRS 113.115, 701.250) This bill repeals those provisions. Instead, **section 5** of this bill provides for the licensure of energy auditors by the Real Estate Division of the Department of Business and Industry and establishes the training and qualifications an energy auditor must have to be licensed to conduct energy audits in this State. **Section 6** of this bill establishes the requirements for conducting an energy audit, limited energy audit or energy assessment, including, without limitation, the elements of the home which must be evaluated, the software and tools the energy auditor must use and the report the energy auditor must provide to the homeowner and the United States Department of Energy.

**Sections 7-28** of this bill are technical amendments required to carry out the administration of the licensure of the energy auditors, including making the provision of energy audits without a license a misdemeanor. In addition, **section 28** makes it a category E felony to attempt to obtain a license as an energy auditor through intentional misrepresentation, deceit or fraud. **Section 30.5 of this bill makes an appropriation to the Real Estate Division for personnel and other costs associated with licensing energy auditors.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 645D of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

**Sec. 2.** *“Energy audit” means a consultation to improve the energy efficiency of a home conducted pursuant to section 6 of this act.*

**Sec. 3.** *“Energy auditor” means a person who is licensed pursuant to this chapter, or regulated by the Public Utilities Commission of Nevada, to conduct energy audits of homes.*

**Sec. 4.** *“License” means a license issued to an energy auditor pursuant to this chapter.*

**Sec. 5. 1.** *The Administrator shall issue a license to any person who:*

*(a) Is of good moral character, honesty and integrity;*

*(b) Holds a certification or accreditation from an organization approved by the Administrator;*

*(c) Has successfully completed not less than 40 hours of training and practice in the following areas:*

*(1) Building science and working with a home as a system, including, without limitation, training in making recommendations based on the proper loading order of improvements;*

*(2) The transfer of heat;*

*(3) Testing building performance;*

*(4) Air distribution and leakage;*

*(5) The calculation of gross and net areas;*

*(6) Energy terms and definitions;*

*(7) Concerns relating to combustion appliances;*

*(8) Envelope leakage, thermal bypass and thermal bridging;*

*(9) The presence or absence of insulation and, when observable, the quality of its installation;*

*(10) The recommended levels of insulation for different climate zones;*

*(11) Determinations of the efficiency of heating, ventilating and air-conditioning equipment from model numbers and default tables;*

*(12) The strengths and weaknesses, drivers and sensitivities of major types of heating, ventilating and air-conditioning systems;*

*(13) Estimations of the efficiency of household appliances based on their model numbers or age;*

*(14) Energy, power, heat-conductivity or resistance and temperature units and key conversion factors;*

*(15) Measuring building dimensions;*

*(16) Identification and documentation of inspected features of the home during an energy audit;*

*(17) Basics of specifications;*

*(18) Determination of the efficiency of windows and doors;*

*(19) Determination of the orientation of buildings and the characteristics of the shading around them;*

*(20) Defining the thermal boundary and making appropriate recommendations for changing it; and*

*(21) The basic concepts of measure interaction, expected life and bundling for optimal performance when the home is considered as a system and taking into consideration the need for savings;*

1       (d) *Has submitted proof that the person or his or her employer holds a policy*  
2 *of insurance that complies with the requirements of subsection 1 of NRS*  
3 *645D.190; and*

4       (e) *Has submitted all information required to complete an application for a*  
5 *license.*

6       2. *The Administrator may deny an application for a license to any person*  
7 *who:*

8       (a) *Has been convicted of, or entered a plea of guilty, guilty but mentally ill*  
9 *or nolo contendere to, forgery, embezzlement, obtaining money under false*  
10 *pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral*  
11 *turpitude;*

12       (b) *Makes a false statement of a material fact on the application;*

13       (c) *Has had a license suspended or revoked pursuant to this chapter within*  
14 *the 10 years immediately preceding the date of application;*

15       (d) *Does not possess the training or certification required pursuant to*  
16 *subsection 1; or*

17       (e) *Has not submitted proof that the person or his or her employer holds a*  
18 *policy of insurance that complies with the requirements of subsection 1 of NRS*  
19 *645D.190.*

20       Sec. 6. 1. *Except as otherwise provided in subsection 5, when conducting*  
21 *an energy audit, an energy auditor shall evaluate the entire home and must*  
22 *include, without limitation, in his or her evaluation:*

23       (a) *A visual inspection, diagnostic overview and health and safety test of the*  
24 *energy features of the entire home;*

25       (b) *Documentation of the general condition of the home, including, without*  
26 *limitation:*

27           (1) *Envelope features and ages;*

28           (2) *Types, characteristics and ages of equipment;*

29           (3) *Characteristics of appliances and lighting; and*

30           (4) *Any anticipated remediation issues, including, without limitation,*  
31 *moisture or combustion appliance problems;*

32       (c) *An assessment of the performance and efficiency of the building airflow*  
33 *and indoor air quality and ventilation, including, without limitation:*

34           (1) *Any visible sources of indoor air pollution;*

35           (2) *The flow rate of exhaust fans and whether the clothes dryer vent is*  
36 *properly vented; and*

37           (3) *An evaluation of the connection of any attached garage to the home*  
38 *for possible air leaks;*

39       (d) *An assessment of the control of moisture in the home, including, without*  
40 *limitation:*

41           (1) *A visual identification of any moisture present from roof leaks, wall*  
42 *penetrations or door or window openings; and*

43           (2) *An identification of any potential areas where mold may grow;*

44       (e) *An estimation of U-factors and solar heat gain coefficients of the*  
45 *windows and doors;*

46       (f) *An evaluation of the efficiency of the heating and cooling of the home,*  
47 *including, without limitation, the performance and efficiency of any:*

48           (1) *Furnace;*

49           (2) *Air-conditioning system;*

50           (3) *Heat pump;*

51           (4) *Air duct system;*

52           (5) *Thermal insulation;*

53           (6) *Boiler;*

(7) System for providing steam heat;  
(8) Hot water heater; or  
(9) Heating, ventilating and air-conditioning system;  
(g) An analysis of the base load energy use and advice to clients on reduction strategies, including, without limitation, an examination of:

(1) The utility use and the billing history for the immediately preceding 12 months;

(2) The efficiency of major appliances;

(3) Lighting efficiency and alternatives; or

(4) The energy used by any pool or spa; and

(h) Testing of combustion appliances in accordance with the standards issued by the American National Standards Institute or the American Society for Testing and Materials.

2. After conducting an energy audit, an energy auditor shall prepare and provide to the homeowner and the United States Department of Energy a report based upon the energy audit that includes, without limitation:

(a) Any energy programs, incentives, regulations, energy costs or fuel types which apply to the homeowner;

(b) A specific recommendation that any combustion appliance which is post-retrofit be tested;

(c) A prioritization of health and safety hazards in the home and recommendations for improvements according to their urgency and importance, in relation to any energy efficiency measures which have been installed;

(d) Suggestions for home repairs and renovations based on a loading order that will maximize cost effectiveness and feasibility using computer software approved by the United States Department of Energy;

(e) In addition to the provisions of paragraph (c), an identification of existing hazards and potential hazards which may develop, together with specific preventative measures; and

(f) Measures to save energy and changes in the behavior of the homeowner to increase energy efficiency, including the use of consumer electronics.

3. An energy auditor shall not base an energy audit upon a single product line, the services of a contractor or his or her own convenience.

4. An energy auditor shall use survey and labeling software programs or rating tools for performing an energy audit which have been approved by the United States Department of Energy.

5. In lieu of an energy audit, an energy auditor may perform a limited energy audit or energy assessment of a home. If an energy auditor performs a limited energy audit or energy assessment, the energy auditor must comply with the requirements of subsections 2, 3 and 4. As used in this subsection:

(a) "Energy assessment" means an evaluation of one or more of the appliances or systems listed in paragraph (f) of subsection 1.

(b) "Limited energy audit" means an evaluation of a home which includes less than the entire home, but includes the provision of at least one of the services specified in paragraphs (a) to (e), inclusive, (g) or (h) of subsection 1.

**Sec. 7.** NRS 645D.010 is hereby amended to read as follows:

645D.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645D.020 to 645D.080, inclusive, **and sections 2, 3 and 4 of this act**, have the meanings ascribed to them in those sections.

**Sec. 8.** NRS 645D.100 is hereby amended to read as follows:

645D.100 The provisions of this chapter do not apply to:

1. A federal or state employee, or an employee of a local government, who prepares or communicates an inspection report **or energy audit** as part of his or her

official duties, unless a certificate *or license* is required as a condition of his or her employment.

2. A person appointed to evaluate real estate pursuant to chapter 152 of NRS or NRS 269.125, except as required by the appointing judge.

3. A board of appraisers acting pursuant to NRS 269.135.

4. A person licensed, certified or registered pursuant to chapter 645, 645C or 684A of NRS while performing an act within the scope of his or her license, certification or registration. For the purposes of this subsection, a person licensed, certified or registered pursuant to chapter 645C of NRS shall be deemed to be acting within the scope of his or her license, certification or registration while performing an appraisal prescribed by federal law that requires a statement of visual condition and while preparing or communicating a report of such an appraisal.

5. A person who makes an evaluation of an improvement as an incidental part of his or her employment for which special compensation is not provided, if that evaluation is only provided to his or her employer for internal use within the place of employment.

6. A person who provides an estimate of cost, repair or replacement of any improvements upon real estate.

7. Any person who reviews plans, performs inspections, prepares inspection reports or examines any component of a structure or construction pursuant to NRS 278.570 or 278.575.

8. An independent registered architect or a licensed professional engineer while performing an inspection pursuant to NRS 116.4106.

**Sec. 9.** NRS 645D.110 is hereby amended to read as follows:

645D.110 1. The Division shall administer the provisions of this chapter and may employ legal counsel, investigators and other professional consultants necessary to discharge its duties pursuant to this chapter.

2. An employee of the Division shall not:

(a) Be employed by or have an interest in any business that prepares inspection reports ~~or~~ *or energy audits;*

(b) Act as an inspector or as an agent for an inspector ~~or~~ *or*

*(c) Act as an energy auditor or as an agent for an energy auditor.*

**Sec. 10.** NRS 645D.120 is hereby amended to read as follows:

645D.120 The Division shall adopt:

1. Regulations prescribing the education and experience required to obtain a certificate.

2. Regulations prescribing a standard of practice and code of ethics for certified inspectors. Such regulations must establish a degree of care that must be exercised by a reasonably prudent certified inspector.

3. *Regulations prescribing the education and experience required to obtain a license.*

4. Such other regulations as are necessary for the administration of this chapter.

**Sec. 11.** NRS 645D.130 is hereby amended to read as follows:

645D.130 1. The Division shall maintain a record of:

(a) Persons from whom it receives applications for a certificate ~~or~~ *or license;*

(b) Investigations conducted by it that result in the initiation of formal disciplinary proceedings;

(c) Formal disciplinary proceedings; and

(d) Rulings or decisions upon complaints filed with it.

2. Except as otherwise provided in this section and NRS 645D.135, records kept in the office of the Division pursuant to this chapter are open to the public for inspection pursuant to regulations adopted by the Division. The Division shall keep

confidential, except as otherwise provided in NRS 239.0115 or unless otherwise ordered by a court, the criminal and financial records of an inspector, *energy auditor* or of an applicant for a certificate ~~or~~ *or license*.

**Sec. 12.** NRS 645D.135 is hereby amended to read as follows:

645D.135 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Division, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a certificate *or license* issued pursuant to this chapter.

2. The complaint or other document filed by the Division to initiate disciplinary action and all documents and information considered by the Division when determining whether to impose discipline are public records.

**Sec. 13.** NRS 645D.160 is hereby amended to read as follows:

645D.160 1. Any person who, in this state, engages in the business of, acts in the capacity of, or advertises or assumes to act as an inspector without first obtaining a certificate pursuant to this chapter is guilty of a misdemeanor.

2. *Any person who, in this state, engages in the business of, acts in the capacity of, or advertises or assumes to act as an energy auditor without first obtaining a license pursuant to this chapter is guilty of a misdemeanor.*

3. The Division may file a complaint in any court of competent jurisdiction for a violation of this section and assist in presenting the law or facts at any hearing upon the complaint.

~~3-4~~ 4. At the request of the Administrator, the Attorney General shall prosecute such a violation. Unless the violation is prosecuted by the Attorney General, the district attorney shall prosecute a violation that occurs in the county of the district attorney.

**Sec. 14.** NRS 645D.170 is hereby amended to read as follows:

645D.170 An application for a certificate *or license* must be in writing upon a form prepared and furnished by the Division. The application must include the following information:

1. The name, age and address of the applicant.

2. The place or places, including the street number, city and county, at which the applicant intends to maintain an office to conduct business as an inspector ~~or~~ *energy auditor*.

3. The business, occupation or other employment of the applicant during the 5 years immediately preceding the date of the application, and the location thereof.

4. The applicant's education and experience to qualify for a certificate ~~or~~ *license*.

5. Whether the applicant has ever been convicted of, is under indictment for, or has entered a plea of guilty, guilty but mentally ill or nolo contendere to:

(a) A felony and, if so, the nature of the felony.

(b) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

6. If the applicant is a member of a partnership or association or is an officer of a corporation, the name and address of the principal office of the partnership, association or corporation.

7. Any other information relating to the qualifications or background of the applicant that the Division requires.

8. All other information required to complete the application.

**Sec. 15.** NRS 645D.180 is hereby amended to read as follows:

645D.180 1. Each application for a certificate *or license* must be accompanied by the fee for the certificate *or license* and the fee to pay the costs of an investigation of the applicant's background.

2. Each applicant must, as part of the application and at his or her own expense:

(a) Arrange to have a complete set of fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(b) Submit to the Division:

(1) A completed fingerprint card and written permission authorizing the Division to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; or

(2) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary.

3. The Division may:

(a) Require more than one complete set of fingerprints;

(b) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 2, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and

(c) Request from each such agency any information regarding the applicant's background that the Division deems necessary.

**Sec. 16.** NRS 645D.190 is hereby amended to read as follows:

645D.190 1. The Administrator shall require each applicant for an original certificate *or license* and each applicant for renewal of a certificate *or license* to submit proof that the applicant or his or her employer holds a policy of insurance covering:

(a) Liability for errors or omissions in an amount of not less than \$100,000; and

(b) General liability in an amount of not less than \$100,000.

2. Each certified inspector, *energy auditor* or his or her employer shall maintain a policy of insurance that complies with the requirements of subsection 1.

**Sec. 17.** NRS 645D.195 is hereby amended to read as follows:

645D.195 1. In addition to any other requirements set forth in this chapter:

(a) A person who applies for the issuance of a certificate *or license* shall include the social security number of the applicant in the application submitted to the Administrator.

(b) A person who applies for the issuance or renewal of a certificate *or license* shall submit to the Administrator the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Administrator shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the certificate ~~or~~ *or license*; or



(b) A separate form prescribed by the Administrator.  
3. A certificate *or license* may not be issued or renewed by the Administrator if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or  
(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Administrator shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

**Sec. 18.** NRS 645D.210 is hereby amended to read as follows:

645D.210 1. If an application for a certificate *or license* is denied:

(a) The Division shall notify the applicant within 15 days after its decision; and  
(b) The applicant may not reapply until he or she petitions the Division for leave to file another application. The Division may grant or deny that leave in its sole discretion.

2. If the applicant, within 30 days after receipt of the notice denying the application, files a written request containing allegations that, if true, qualify the applicant for a certificate ~~or license~~ *or license*, the Administrator shall set the matter for a hearing before a hearing officer of the Division to be conducted within 60 days after receipt of the applicant's request. The decision of the hearing officer is a final decision for the purposes of judicial review.

**Sec. 19.** NRS 645D.220 is hereby amended to read as follows:

645D.220 The Division, upon the discovery of an error in the issuance of a certificate *or license* that is related to the qualifications or fitness of the holder thereof, may invalidate the certificate *or license* upon written notice to the holder. The holder shall surrender the certificate *or license* to the Division within 20 days after the notice is sent by the Division. A person whose certificate *or license* is invalidated pursuant to this section, and who has surrendered his or her certificate ~~or license~~ *or license*, may request a hearing on the matter in the same manner as for the denial of an application pursuant to NRS 645D.210.

**Sec. 20.** NRS 645D.230 is hereby amended to read as follows:

645D.230 1. The Division shall issue a certificate *or license* to each eligible person in the form and size prescribed by the Division. A certificate *or license* must:

(a) Indicate the name and address of the inspector *or energy auditor* and the location of each place where he or she transacts business as an inspector ~~or energy auditor~~ *or energy auditor*; and

(b) Contain any additional matter prescribed by the Division.

2. A certificate ~~for license~~ is valid for 2 years after the first day of the first calendar month immediately following the date it is issued.

3. *A license is valid for 1 year after the first day of the first calendar month immediately following the date it is issued.*

4. If an inspector *or energy auditor* fails to apply for the renewal of his or her certificate *or license* and pay the fee for renewal before the certificate *or license* expires, and applies for renewal:

(a) Not later than 1 year after the date of expiration, he or she must pay a fee equal to 150 percent of the amount otherwise required for renewal.

(b) Later than 1 year after the date of expiration, he or she must apply in the same manner as for an original certificate ~~or~~ **or license**.

~~§ 5.~~ **5.** The Division may:

(a) Create and maintain a secure website on the Internet through which each certificate **or license** issued pursuant to the provisions of this chapter may be renewed; and

(b) For each certificate **or license** renewed through the use of a website created and maintained pursuant to paragraph (a), charge a fee in addition to any other fee provided for pursuant to this chapter which must not exceed the actual cost to the Division for providing that service.

**Sec. 21.** NRS 645D.235 is hereby amended to read as follows:

645D.235 1. A certified inspector **or energy auditor** shall notify the Division in writing if he or she is convicted of, or enters a plea of guilty, guilty but mentally ill or nolo contendere to, a felony or any offense involving moral turpitude.

2. A certified inspector **or energy auditor** shall submit the notification required by subsection 1:

(a) Not more than 10 days after the conviction or entry of the plea of guilty, guilty but mentally ill or nolo contendere; and

(b) When submitting an application to renew a certificate **or license** issued pursuant to this chapter.

**Sec. 22.** NRS 645D.240 is hereby amended to read as follows:

645D.240 1. The following fees must be charged and collected by the Division:

For each application for a certificate <b>or license</b> .....	\$100
For the issuance or renewal of a <b>certificate or license</b> .....	250
<del>For the issuance or renewal of a license .....</del>	<del>500</del>
For each penalty for a late renewal of a certificate <b>or license</b> .....	125
For each change of name, address or association .....	20
For each duplicate certificate <b>or license</b> where the original is lost or destroyed and an affidavit is made thereof .....	20
For each reinstatement to active status of an inactive certificate <b>or license</b> .....	20
For each annual approval of a course of instruction offered in preparation for an original certificate <b>or license</b> .....	100
For each original accreditation of a course of continuing education .....	100
For each renewal of accreditation of a course of continuing education .....	50

2. The Division shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of:

(a) Any examination for a certificate ~~or~~ **or license**, including any costs which are necessary for the administration of such an examination.

(b) Any investigation of a person's background.

**Sec. 23.** NRS 645D.690 is hereby amended to read as follows:

645D.690 The expiration or revocation of a certificate **or license** by operation of law or by order or decision of a hearing officer or court of competent jurisdiction, or the voluntary surrender of a certificate **or license** by a certified inspector **or energy auditor** does not:

1. Prohibit the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the certified inspector *or energy auditor* as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the certified inspector *or energy auditor*.

**Sec. 24.** NRS 645D.700 is hereby amended to read as follows:

645D.700 1. Grounds for disciplinary action against a certified inspector *or energy auditor* are:

(a) Unprofessional conduct;

(b) Professional incompetence; and

(c) A criminal conviction for a felony or any offense involving moral turpitude.

2. If grounds for disciplinary action against a certified inspector *or energy auditor* exist, the Division may, after providing the inspector *or energy auditor* with notice and an opportunity for a hearing, do one or more of the following:

(a) Revoke or suspend the certificate *or license*.

(b) Place conditions upon the certificate *or license* or upon the reissuance of a certificate *or license* revoked pursuant to this section.

(c) Deny the renewal of the certificate *or license*.

(d) Impose a fine of not more than \$1,000 for each violation.

3. If a certificate *or license* is revoked by the Division, another certificate *or license* must not be issued to the same inspector *or energy auditor* for at least 1 year after the date of the revocation, or at any time thereafter except in the sole discretion of the Administrator, and then only if the inspector *or energy auditor* satisfies the requirements for an original certificate *or license*.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

**Sec. 25.** NRS 645D.703 is hereby amended to read as follows:

645D.703 In addition to any other remedy or penalty, the Administrator may:

1. Refuse to issue a certificate *or license* to a person who has failed to pay money which the person owes to the Division.

2. Refuse to renew, or suspend or revoke, the certificate *or license* of a person who has failed to pay money which the person owes to the Division.

**Sec. 26.** NRS 645D.705 is hereby amended to read as follows:

645D.705 1. If the Administrator receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a certified inspector *or energy auditor*, the Administrator shall deem the certificate *or license* issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Administrator receives a letter issued to the certified inspector *or energy auditor* by the district attorney or other public agency pursuant to NRS 425.550 stating that the certified inspector *or energy auditor* has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Administrator shall reinstate a certificate *or license* that has been suspended by a district court pursuant to NRS 425.540 if the Administrator receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate *or license* was suspended stating that the person whose certificate *or license* was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

**Sec. 27.** NRS 645D.730 is hereby amended to read as follows:  
645D.730 1. In addition to any other remedy or penalty, the Administrator may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate *or license* or any type of authorization is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate *or license* or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Administrator imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or \$5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Administrator shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Administrator deems to be relevant.

4. Before the Administrator may impose the administrative fine, the Administrator must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Administrator in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter if:

(a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

**Sec. 28.** NRS 645D.900 is hereby amended to read as follows:

645D.900 1. A person who obtains or attempts to obtain a certificate *or license* by means of intentional misrepresentation, deceit or fraud is guilty of a category E felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court may impose a fine of not more than \$10,000.

2. A person who:

(a) Holds himself or herself out as a certified inspector ~~or~~ *or energy auditor*;

(b) Uses in connection with his or her name the words "licensed," "registered," "certified" or any other title, word, letter or other designation intended to imply or designate that he or she is a certified inspector ~~or~~ *or energy auditor*; or

(c) Describes or refers to any inspection report *or energy audit* prepared by him or her as "certified" or "licensed" in this state, without first obtaining a certificate *or license* as provided in this chapter,

is guilty of a gross misdemeanor.

**Sec. 29.** (Deleted by amendment.)

**Sec. 30.** NRS 113.115 and 701.250 are hereby repealed.

**Sec. 30.5. 1. There is hereby appropriated from the State General Fund to the Real Estate Division of the Department of Business and Industry for personnel and other related costs for the licensure of energy auditors pursuant to the provisions of this act:**

**For the Fiscal Year 2011-2012.....\$46,780**

For the Fiscal Year 2012-2013.....\$58,214

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the Real Estate Division of the Department of Business and Industry or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 21, 2012, and September 20, 2013, respectively, by either the Division or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 21, 2012, and September 20, 2013, respectively.

**Sec. 31.** Any regulations adopted by the Nevada Energy Commissioner pursuant to NRS 701.250 are void. The Legislative Counsel shall remove those regulations from the Nevada Administrative Code as soon as practicable after the effective date of this section.

**Sec. 32.** The Real Estate Division of the Department of Business and Industry and the Director of the Office of Energy shall, on or before July 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

**Sec. 33.** 1. This section and sections 30, ~~31 and~~ to 32, inclusive, of this act become effective upon passage and approval.

2. Sections 1 to 29, inclusive, of this act become effective on July 1, 2011.

3. Section 17 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a procedure to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,  
 are repealed by the Congress of the United States.

4. Section 26 of this act expires by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,  
 are repealed by the Congress of the United States.

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## TEXT OF REPEALED SECTIONS

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### **113.115 Seller to provide evaluation of energy consumption of property; limitations.**

1. Except as otherwise provided in subsection 3, the seller shall have the energy consumption of the residential property evaluated pursuant to the program established in NRS 701.250.

2. Except as otherwise provided in subsection 4, before closing a transaction for the conveyance of residential property, the seller shall serve the purchaser with

the completed evaluation required pursuant to subsection 1, if any, on a form to be provided by the Nevada Energy Commissioner, as prescribed in regulations adopted pursuant to NRS 701.250.

3. Subsection 1 does not apply to a sale or intended sale of residential property:

(a) By foreclosure pursuant to chapter 107 of NRS.

(b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.

(c) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.

(d) If the seller and purchaser agree to waive the requirements of subsection 1.

4. If an evaluation of a residential property was completed not more than 5 years before the seller and purchaser entered into the agreement to purchase the residential property, the seller may serve the purchaser with that evaluation.

**701.250 Program to evaluate energy consumption of residential property.**

1. The Commissioner shall adopt regulations establishing a program for evaluating the energy consumption of residential property in this State.

2. The regulations must include, without limitation:

(a) Standards for evaluating the energy consumption of residential property; and

(b) Provisions prescribing a form to be used pursuant to NRS 113.115, including, without limitation, provisions that require a portion of the form to provide information on programs created pursuant to NRS 702.275 and other programs of improving energy conservation and energy efficiency in residential property.

3. As used in this section:

(a) "Dwelling unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one person who maintains a household or by two or more persons who maintain a common household.

(b) "Residential property" means any land in this State to which is affixed not less than one or more than four dwelling units.