

DEPARTMENT OF BUSINESS AND INDUSTRY  
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**SELLER'S ENERGY CONSUMPTION EVALUATION**

**Effective January 1, 2011**

**Pursuant to NRS 113.115**

*(For Certified Inspectors licensed pursuant to NRS 645D.040)*

NRS 113.115 requires the seller of a residential property in Nevada to have the consumption of the residential property evaluated and, unless a waiver is executed by both seller and purchaser or unless one of the exclusions set forth in NRS 113.115(3) & (4) apply, to serve the purchaser with the completed evaluation before closing a transaction.

The regulations adopted by the Nevada Energy Commissioner for implementing the program (LCB File No. R-148-10 effective January 1, 2011) require that the form must be completed by the seller of the residential property or by a certified inspector pursuant to NRS 645D.040. The regulation also sets forth that the evaluation must be completed on the most recent version of the form set forth by the Energy Commissioner and that that form may not be modified, altered or amended in any manner except by or with the approval of the Commissioner.

All existing standards, requirements and rules for certified inspectors licensed pursuant to NRS and NAC 645D apply.

The Report – NRS 645D.070

The Seller's Energy Consumption Evaluation Form issued by the Nevada Energy Commissioner is the report for purposes of providing an evaluation of the energy consumption of residential property pursuant to NRS 113.115.

Prohibited Acts – NAC 645D.470

Completion of the Seller's Energy Consumption Evaluation Form does not "offer warranties or guaranties of any kind." Page 1 of the Form states, "This statement is not a warranty of any kind by the Seller or by any Agent representing the Seller in this transaction and is not a substitute for any inspections or warranties the Buyer may wish to obtain."

Completion of the Seller's Energy Consumption Evaluation Form does not "calculate the strength, adequacy or efficiency of any system or component." The key in the prohibition is to "calculate strength, adequacy or efficiency." The Form reports; reports the age, if known, and reports any efficiency rating "to the extent that Energy Star labeling or any other labeling is observable by visual labeling." U/A for "unavailable" should be used when labeling is not readily accessible or readable or available. If an efficiency rating for a system is observable by visual labeling, it should be reported. If it is not, it may not be calculated – even by an individual trained or certified to do so.

It is not considered a "calculation of strength, adequacy or efficiency" to sum and report on the Form the total yearly cost for electricity consumption, natural gas consumption, heating oil, propane, kerosene, or other fuel. Basic mathematical calculations are necessary to complete yearly consumption and cost of energy commodities and to calculate the approximate percentage of total fixed lighting by each type in the residence. The inspector must obtain, "if reasonably available," utility records from the

seller/client to prepare the monthly consumption and cost sections on page 2 of the Form.

The reporting of monthly and annual energy consumption and monthly and yearly cost by energy commodity type does not project the operating cost of any system or component. It is a report of past consumption, under certain conditions qualified in the report.

The completion of the Seller's Energy Consumption Evaluation Form does not require the inspector to "enter any area or perform any procedure that may damage part of the structure being inspected or endanger any person." NAC 645D.470.5 prohibits the inspector from doing that. The option to report "unavailable" and "unknown" is on the Form.

#### Professional Conduct – NAC 645D.460

The certified inspector has the duty to "perform his duties with the highest standard of integrity, professionalism and fidelity to the public and the client, with fairness and impartiality to all." (NAC 645D.460.1)

**Question: Can an inspector work for a seller to complete the energy evaluation form and also work for the buyer to inspect the same residential property for the structural components set forth in NAC 645D.480-.580?**

Only with the consent of all interested parties. NAC 645D.460.5 requires that a certified inspector must "not accept compensation, financial or otherwise, from more than one interested party for the same service on the same property without the consent of all interested parties." Since both types of inspections – energy and structural – are by definition the same in Chapter 645D, this prohibition applies. In an abundance of caution, and with fairness impartiality to all, the inspector must obtain the consent of all interested parties to perform inspections for both a seller and a buyer for the same residential property.

**Question: Can an inspector conduct the energy evaluation and conduct an inspection for structural components set forth in NAC 645D.480-.580 for a residence for the same client – and at the same time?**

Yes. Since there is only one "interested party," an inspector is not prohibited from conducting concurrent inspections for the same client. It may be that a seller would want to get the energy evaluation done and find out if there were going to be any structural component issues that might come up in the sale of the home.

**Question: Can an inspector conduct a simultaneous energy evaluation and inspection for structural components set forth in NAC 645D.480-.580 for two different clients at the same time?**

Only with disclosure and concurrence of all interested parties. (NAC 645D.460.4) This would be considered a "fairness" or unprofessional conduct issue, especially if an inspector double-billed two different clients for the same time expended.

**Question: If an inspector performed an energy evaluation inspection for a seller at the time of listing, could the same inspector perform a structural component inspection for a buyer for the same residence at a later time in the transaction process?**

Only with disclosure and concurrence of all interested parties (NAC 645D.460.4).

Note: NAC 645D.600.4 indicates that it is unprofessional conduct for an inspector to fail to “adequately document any required disclosure of his interest in any property with which he is dealing.”

**The Seller’s Energy Consumption Evaluation Form asks: 1) Have any improvements been made to the dwelling unit in the last 5 years which had the effect of reducing the overall energy consumption of the property; and 3) Does the dwelling unit have other design attributes or features that improve the overall energy efficiency? Is it acceptable for an inspector to respond to these without violating NAC 645D.470?**

The questions are intended to be factual reporting responses, and not a calculation of strength, adequacy or efficiency and not a projection of the operating costs of any component. The seller would need to provide information to the inspector for these responses, which can be noted by attribution to the seller in the “comments” section on the Form – or the inspector can respond “unknown.”

**Can the seller and buyer split the fee to be paid to a certified inspector for the energy evaluation, if mutually agreed upon by both parties and the inspector provides separate invoices for the energy evaluation service?**

While NRS 113.115 does not explicitly state who must pay, the law does specify that it is the seller that must “have the energy consumption of the residential property evaluated.” The burden is clearly on the seller to provide the evaluation.

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