

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1994

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Legislative Document

No. 1765

H.P. 1310

House of Representatives, January 24, 1994

**An Act to Protect Ratepayer Investments.**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.  
Reference to the Committee on Utilities suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative GWADOSKY of Fairfield.  
Cosponsored by Representatives: TARDY of Palmyra, WHITCOMB of Waldo, Senator:  
SUMMERS of Cumberland.

Be it enacted by the People of the State of Maine as follows:

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4           **Sec. 1. 35-A MRSA §3153-A, sub-§4** is enacted to read:

6           4. Repayment of subsidies and loans. If a nonresidential  
8           customer, after January 1, 1994, ceases to purchase its  
10           electrical requirements or purchases less of its electrical  
12           requirements than it purchased during the prior year from an  
14           electric utility that has financed or subsidized for that  
16           customer capital improvements, measures or techniques for load,  
18           energy or demand side management, then:

20           A. All loans or unpaid loan balances owed to the electric  
22           utility become immediately due and payable; and

24           B. All rebates made or subsidies paid to the customer must  
26           be immediately repaid to the electric utility.

28           Any amounts that become payable to the electric utility under  
30           this subsection bear interest from and after the time those  
32           amounts become payable at the rate provided for prejudgment  
34           interest in Title 14, section 1602, subsection 1, paragraph B.

36           **Sec. 2. 35-A MRSA §3303, sub-§8-A** is enacted to read:

38           8-A. Self-generator. "Self-generator" means a cogenerator  
40           or small power producer or an affiliate of either who not only  
42           produces electricity, but also uses electricity for manufacturing  
44           or other purposes.

46           **Sec. 3. 35-A MRSA §3307, sub-§2,** as enacted by PL 1987, c.  
48           141, Pt. A, §6, is amended to read:

50           **2. Alternative cost of energy to the utility.** The rates  
52           paid by an electric utility to a small power producer or  
54           cogenerator may not exceed, over the term of the power purchase  
56           contract, the cost to the electric utility of the electric energy  
58           which, but for the purchase from the cogenerator or small power  
60           producer, the utility would generate or purchase from another  
62           source. A determination of alternative energy costs to the  
64           utility shall include consideration of the cost of additional or  
66           existing generating capacity which could be displaced over the  
68           term of the contract as well as the cost of fuel and other  
70           operating expenses of electric energy production which a utility  
72           would otherwise incur in generating or purchasing power from  
74           another source.

76           A self-generator that has entered into a simultaneous purchase  
78           and sale power purchase contract with an electric utility shall  
80           continue to purchase its electricity requirements from that  
82           electric utility for the term of the power purchase contract.  
84           If, after January 1, 1994, the self-generator entering into such

2 contract ceases to purchase its electrical requirements or  
3 purchases less of its electrical requirements than it purchased  
4 during the prior year from that electric utility, the electric  
5 utility, at its option, may terminate the power purchase  
6 agreement with the self-generator upon 60 days' written notice.  
7 Upon termination, the self-generator shall refund the electric  
8 utility the amount by which rates paid by the electric utility  
9 under the simultaneous purchase and sale power purchase contract  
10 exceeded, over the contract period prior to termination, the  
11 avoided cost determined for the period prior to termination on  
12 the date on which the electric utility and the self-generator  
13 entered into the contract.

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### 18 STATEMENT OF FACT

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19 The purpose of this bill is to give utility companies the  
20 authority to terminate power purchase contracts if a  
21 self-generator ceases purchasing electricity from the electric  
22 utility with which it has a simultaneous purchase and sale  
23 arrangement and other rate payers are deprived of the benefit of  
24 revenues otherwise contributing to the utility's fixed cost. The  
25 bill also requires customers who cease to purchase their  
26 electrical requirements or who purchase less of their electrical  
27 requirements than they purchased during the prior year and have  
28 been provided subsidies to repay the subsidies.

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35 This document has not yet been reviewed to determine the  
36 need for cross-reference, stylistic and other technical  
37 amendments to conform existing law to current drafting standards.

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