

By Mr. Hodgkins of Lee, petition of Christopher J. Hodgkins that provision be made for financial incentives for cogeneration and small power production facilities. Energy.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Eighty-Five.

AN ACT PROVIDING FINANCIAL INCENTIVES FOR COGENERATION AND SMALL POWER PRODUCTION FACILITIES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section one of chapter 40D of the General Laws is  
2 hereby amended by inserting after (c) the following clause:

3 (c½) "Cogeneration facilities," facilities which (i) produce elec-  
4 tric energy and steam or other forms of useful energy for purposes  
5 including, but not limited to, heating and cooling, (ii) satisfy the  
6 criteria for qualifying cogeneration facilities established pursuant  
7 to the Public Utilities Regulatory Policies Act of 1978, 16 U.S.C.  
8 s.2601 et seq. and the regulations promulgated thereunder, and (iii)  
9 are owned by persons not primarily engaged in the generation or  
10 sale of electric power (other than electric power solely from cogen-  
11 eration facilities or small power production facilities).

1 SECTION 2. Said chapter 40D is further amended by striking  
2 subsection (1) of section 1, as amended by chapter seven hundred  
3 and eighty-seven of the acts of 1979, in its entirety and inserting in  
4 its place the following: —

5 (1) "Industrial enterprise", an enterprise engaged in applying  
6 skill and labor to the giving of new shapes, new qualities or new  
7 combinations to matter as material products or to the assembly,  
8 processing, preservation, storage, handling or transportation of  
9 manufactured or natural products, or to cogeneration carried on

10 by means of cogeneration facilities, or to production of electric  
11 energy by small power production facilities, or to stationary facili-  
12 ties and equipment necessary or useful in connection with railroad  
13 operations, including railroad rights of way and all associated  
14 tracks and facilities or to the making of works of art by self-  
15 employed artists. In any city or in a town subject to the provisions  
16 of clause (k) of subdivision (2) of section twelve, industrial enter-  
17 prise shall also include commercial enterprise, which shall mean  
18 the conduct of a trade or business. Facilities to be rented by a party  
19 other than the municipality to governmental and nonprofit entities  
20 for uses not otherwise qualified under this chapter may be financed  
21 under this chapter in the same manner as facilities to be used in a  
22 commercial enterprise and for this purpose the term commercial  
23 enterprise shall be read to include the operation of such facilities.  
24 Rental housing, other than facilities to be rented primarily to  
25 transient guests, may not be financed under this chapter. Artists'  
26 studios having incidental living accommodations attached thereto  
27 shall not be deemed to be rental housing within the meaning of this  
28 chapter.

1 SECTION 3. Said chapter 40D is further amended by inserting  
2 after (q) the following clause: —

3 (q½) "Small power production facilities," facilities which (i)  
4 produce electric energy primarily by the use of an energy source  
5 which is a renewable resource, including, but not limited to, wood  
6 (including wood by-products and residues), geothermal, wind,  
7 water, and solar energy or any combination thereof, and which has  
8 no more than 15,000 kilowatts of installed capacity and (ii) are  
9 owned by persons not primarily engaged in the generation or sale  
10 of electric power (other than electric power solely from cogenera-  
11 tion facilities or small power production facilities).

1 SECTION 4. Said chapter 40D is further amended by striking  
2 section seven (c), as amended by chapter four hundred and ninety-  
3 five of the acts of nineteen hundred and seventy-eight, and insert-  
4 ing in its place the following: —

5 (c) Nothing in this chapter shall be deemed to permit the financ-  
6 ing by a municipality of a plant (i) for the manufacture or distribu-

7 tion of electricity except (A) small power production facilities or  
8 (B) cogeneration facilities or (ii) for the manufacture or distribu-  
9 tion of gas or electricity except (A) back-up power generating or  
10 distribution facilities or other facilities for the supply of gas or  
11 electricity to occupants of an industrial development project fi-  
12 nanced under this chapter, (B) pollution control facilities, (C)  
13 solid waste disposal facilities.

1 SECTION 5. Said chapter 40D is further amended by striking  
2 section 23, as added by section three of chapter seven hundred and  
3 seventy-five of the acts of 1972 in its entirety and inserting in its  
4 place the following: —

5 *Section 23.* A municipality acting by and through an authority  
6 in connection with a project for pollution control facilities, cogen-  
7 eration facilities, or small power production facilities financed or  
8 to be financed under this chapter may apply for and accept and use  
9 any grant, loan, or grant and loan of federal or state funds for such  
10 pollution control facilities, cogeneration facilities, or small power  
11 production facilities.

