

2012 -- H 8234

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

A N A C T

AUTHORIZING THE TOWN OF MIDDLETOWN TO FINANCE RENOVATIONS AND IMPROVEMENTS TO THE FIRE DEPARTMENT AND DEPARTMENT OF PUBLIC WORKS FACILITY IN THE TOWN BY THE ISSUANCE OF NOT MORE THAN \$7,500,000 BONDS AND/OR NOTES THEREFOR

Introduced By: Representatives Ruggiero, Reilly, and Jackson

Date Introduced: May 31, 2012

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. The town of Middletown is hereby empowered, in addition to authority
2 previously granted, to issue bonds to an amount not exceeding seven million five hundred
3 thousand dollars (\$7,500,000) from time to time under its corporate name and seal. The bonds of
4 each issue may be issued in the form of zero coupon bonds, capital appreciation bonds, serial
5 bonds or term bonds or a combination thereof and shall be payable either by maturity of principal
6 in the case of serial bonds or by mandatory serial redemption in the case of term bonds, in annual
7 installments of principal, the first installment to be not later than five (5) years and the last
8 installment not later than thirty (30) years after the date of the bonds. The amount of principal
9 appreciation each year on any bonds, after the date of original issuance, shall not be considered to
10 be principal indebtedness for the purposes of any constitutional or statutory debt limit or any
11 other limitation. The appreciation of principal after the date of original issue shall be considered
12 interest. Only the original principal amount shall be counted in determining the principal amount
13 so issued and any interest component shall be disregarded. For each issue the amounts payable
14 annually for principal and interest combined either shall be as nearly equal from year to year as is
15 practicable in the opinion of the officers authorized to issue the bonds, or shall be arranged in
16 accordance with a schedule providing for a more rapid amortization of principal.

17 SECTION 2. The bonds shall be signed by the town finance director and by the president

1 of the town council and shall be issued and sold in such amounts as the town council may
2 authorize. The manner of sale, denominations, maturities, interest rates and other terms,
3 conditions and details of any bonds or notes issued under this act may be fixed by the proceedings
4 of the town council authorizing the issue or by separate resolution of the town council or, to the
5 extent provisions for these matters are not so made, they may be fixed by the officers authorized
6 to sign the bonds or notes. Interest coupons (if any) shall bear the manual or facsimile signature
7 of the town finance director. The proceeds derived from the sale of the bonds shall be delivered to
8 the town finance director, and such proceeds exclusive of premiums and accrued interest shall be
9 expended: (a) For renovations and improvements to the Fire Department and Department of
10 Public Works Facility in the town; (b) For payment of the principal or interest on temporary notes
11 issued under section three; (c) In payment of capitalized interest on bonds or notes; (d) In
12 repayment of advances under section four; or (e) In payment of related costs of issuance of any
13 bonds or notes. No purchaser of any bonds or notes under this act shall be in any way responsible
14 for the proper application of the proceeds derived from the sales thereof. The project shall be
15 carried out and all contracts made therefor on behalf of the town by the town council. The
16 proceeds of bonds or notes issued under this act, any applicable federal or state assistance and
17 other moneys referred to in section six and nine, shall be deemed appropriated for the purposes of
18 this act without further action than that required by this act. The bond issue authorized by this act
19 may be consolidated for the purposes of issuance and sale with any other bond issue of the town
20 heretofore or hereafter authorized, provided that, notwithstanding any such consolidation, the
21 proceeds from the sale of the bonds authorized by this act shall be expended for the purposes set
22 forth above. The town finance director and the president of the town council, on behalf of the
23 town, are hereby authorized to execute such instruments, documents or other papers as either of
24 them deem necessary or desirable to carry out the intent of this act and are also authorized to take
25 all actions and execute all documents or agreements necessary to comply with federal tax and
26 securities laws, which documents or agreements may have a term coextensive with the maturity
27 of the bonds authorized hereby.

28 SECTION 3. The town council may by resolution authorize the issue from time to time of
29 interest bearing or discounted notes in anticipation of the issue of bonds or in anticipation of the
30 receipt of federal or state aid for the purposes of this act. The amount of original notes issued in
31 anticipation of bonds may not exceed the amount of bonds which may be issued under this act
32 and the amount of original notes issued in anticipation of federal or state aid may not exceed the
33 amount of available federal or state aid as estimated by the town finance director. Temporary
34 notes issued hereunder shall be signed by the manual or facsimile signatures of the town finance

1 director and by the president of the town council and shall be payable within five (5) years from
2 their respective dates, but the principal of and interest on notes issued for a shorter period may be
3 renewed or paid from time to time by the issue of other notes thereunder, provided the period
4 from the date of an original note to the maturity or any note issued to renew or pay the same debt
5 or the interest thereon shall not exceed five (5) years. Any temporary notes in anticipation of
6 bonds issued under this section may be refunded prior to the maturity of the notes by the issuance
7 of additional temporary notes, provided that no such refunding shall result in any amount of such
8 temporary notes outstanding at any one time in excess of two hundred percent (200%) of the
9 amount of bonds which may be issued under this act, and provided further that if the issuance of
10 any such refunding notes results in any amount of such temporary notes outstanding at any one
11 time in excess of the amount of bonds which may be issued under this act, the proceeds of such
12 refunding notes shall be deposited in a separate fund established with the bank which is paying
13 agent for the notes being refunded. Pending their use to pay the notes being refunded, moneys in
14 the fund shall be invested for the benefit of the town by the paying agent at the direction of the
15 town finance director in any investment permitted under section five. The moneys in the fund and
16 any investments held as a part of the fund shall be held in trust and shall be applied by the paying
17 agent solely to the payment or prepayment of the principal of and interest on the notes being
18 refunded. Upon payment of all principal of and interest on the notes, any excess moneys in the
19 fund shall be distributed to the town. The town may pay the principal of and interest on notes in
20 full from other than the issuance of refunding notes prior to the issuance of bonds pursuant to
21 Section 1 hereof. In such case, the town's authority to issue bonds or notes in anticipation of
22 bonds under this act shall continue provided that (1) The town council passes a resolution
23 evidencing the town's intent to pay off the notes without extinguishing the authority to issue
24 bonds or notes and (2) That the period from the date of an original note to the maturity date of
25 any other note shall not exceed five (5) years.

26 SECTION 4. Pending any authorization or issue of bonds hereunder or pending or in lieu
27 of any authorization or issue of notes hereunder, the town finance director, with the approval of
28 the town council, may, to the extent that bonds or notes may be issued hereunder, apply funds in
29 the treasury of the town to the purposes specified in section two, such advances to be repaid
30 without interest from the proceeds of bonds or notes subsequently issued or from the proceeds of
31 applicable federal or state assistance or from other available funds.

32 SECTION 5. Any proceeds of bonds or notes issued hereunder or of any applicable
33 federal or state assistance, pending their expenditure, may be deposited or invested by the town
34 finance director in demand deposits, time deposits or savings deposits in banks which are

1 members of the Federal Deposit Insurance Corporation or in obligations issued or guaranteed by
2 the United States of America or by any agency or instrumentality thereof or as may be provided
3 in any other applicable law of the state of Rhode Island or resolution of the town council or
4 pursuant to an investment policy of the town.

5 SECTION 6. Any accrued interest received upon the sale of bonds or notes hereunder
6 shall be applied to the payment of the first interest due thereon. Any premiums arising from the
7 sale of bonds or notes hereunder and any earnings or net profit realized from the deposit or
8 investment of funds hereunder shall, in the discretion of the finance director, be applied to the
9 cost of preparing, issuing, and marketing bonds or notes hereunder to the extent not otherwise
10 provided, to the payment of the cost of the project, to the payment of the principal of or interest
11 on bonds or notes issued hereunder or to any one (1) or more of the foregoing. The cost of
12 preparing, issuing and marketing bonds or notes hereunder may also, in the discretion of the town
13 finance director, be met from bond or note proceeds exclusive of accrued interest or from other
14 moneys available therefor. Any balance of bond or note proceeds remaining after payment of the
15 cost of the projects and the cost of preparing, issuing and marketing bonds or notes hereunder
16 shall be applied to the payment of the principal of or interest on bonds or notes issued hereunder.
17 To the extent permitted by applicable federal laws, any earnings or net profit realized from the
18 deposit or investment of funds hereunder may, upon receipt, be added to and dealt with as part of
19 the revenues of the town from property taxes. In exercising any discretion under this section, the
20 town finance director shall be governed by any instructions adopted by resolution of the town
21 council.

22 SECTION 7. All bonds and notes issued under this act and the debts evidenced thereby
23 shall be obligatory on the town in the same manner and to the same extent as other debts lawfully
24 contracted by it and shall be excepted from the operation of section 45-12-2 of the general laws.
25 No such obligation shall at any time be included in the debt of the town for the purpose of
26 ascertaining its borrowing capacity. The town shall annually appropriate a sum sufficient to pay
27 the principal and interest coming due within the year on bonds and notes issued hereunder to the
28 extent that moneys therefor are not otherwise provided. If such sum is not appropriated, it shall
29 nevertheless be added to the annual tax levy. In order to provide such sum in each year and
30 notwithstanding any provision of law to the contrary, all taxable property in the town shall be
31 subject to ad valorem taxation by the town without limitation as to rate or amount.

32 SECTION 8. Any bonds or notes issued under the provisions of this act, if properly
33 executed by officers of the town in office on the date of execution, shall be valid and binding
34 according to their terms notwithstanding that before the delivery thereof and payment therefor

1 any or all of such officers shall for any reason have ceased to hold office.

2 SECTION 9. The town, acting by resolution of its town council is authorized to apply
3 for, contract for and expend any federal or state advances or other grants or assistance which may
4 be available for the purposes of this act, and any such expenditures may be in addition to other
5 moneys provided in this act. To the extent of any inconsistency between any law of this state and
6 any applicable federal law or regulation, the latter shall prevail. Federal and state advances, with
7 interest where applicable, whether contracted for prior to or after the effective date of this act,
8 may be repaid as project costs under section two.

9 SECTION 10. Bonds and notes may be issued under this act without obtaining the
10 approval of any governmental agency or the taking of any proceedings or the happening of any
11 conditions except as specifically required by this act for such issue. In carrying out any project
12 financed in whole or in part under this act, including where applicable the condemnation of any
13 land or interest in land, and in the levy and collection of assessments or other charges permitted
14 by law on account of any such project, all action shall be taken which is necessary to meet
15 constitutional requirements whether or not such action is otherwise required by statute; but the
16 validity of bonds and notes issued hereunder shall in no way depend upon the validity or
17 occurrence of such action.

18 SECTION 11. All or any portion of the authority to issue bonds and notes under this act
19 may be extinguished by resolution of the town council, without further action by the general
20 assembly.

21 SECTION 12. The town finance director and the president of the town council, on behalf
22 of the town, are hereby authorized to execute such documents or other papers as either of them
23 deem necessary or desirable to carry out the intent of this act and are also authorized to take all
24 actions and execute all documents or agreements necessary to comply with federal tax and
25 securities laws, which documents or agreements may have a term coextensive with the maturity
26 of the bonds authorized hereby, including Rule 15c2-12 of the Securities and Exchange
27 Commission (the Rule) and to execute and deliver a continuing disclosure agreement or
28 certificate in connection with the bonds or notes in the form as shall be deemed advisable by such
29 officers in order to comply with the Rule.

30 SECTION 13. The question of the approval of this act shall be submitted to the electors
31 of the town at the election to be held on November 6, 2012 or such other general or special
32 election (other than a primary) to be held prior to December 31, 2012, as shall be designated by
33 the town council. The question shall be submitted in substantially the following form: "Shall an
34 act, passed at the 2012 session of the general assembly, entitled "AN ACT AUTHORIZING THE

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2 THE FIRE DEPARTMENT AND DEPARTMENT OF PUBLIC WORKS FACILITY IN THE
3 TOWN BY THE ISSUANCE OF NOT MORE THAN \$7,500,000 BONDS AND/OR NOTES
4 THEREFOR" be approved?" and the warning for the election shall contain the question to be
5 submitted. From the time the election is warned and until it is held, it shall be the duty of the
6 town clerk to keep a copy of the act available at his office for public inspection, but the validity of
7 the election shall not be affected by this requirement.

8 SECTION 14. This section and the foregoing section shall take effect upon the passage of
9 this act. The remainder of this act shall take effect upon the approval of this act by a majority of
10 those voting on the question at the election prescribed by the foregoing section.

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EXPLANATION

OF

A N A C T

AUTHORIZING THE TOWN OF MIDDLETOWN TO FINANCE RENOVATIONS AND
IMPROVEMENTS TO THE FIRE DEPARTMENT AND DEPARTMENT OF PUBLIC
WORKS FACILITY IN THE TOWN BY THE ISSUANCE OF NOT MORE THAN \$7,500,000
BONDS AND/OR NOTES THEREFOR

1 This act would authorize the town of Middletown to issue not more than \$7,500,000
2 bonds and notes to finance renovations and improvements to the Fire Department and Department
3 of Public Works Facility in the town. Sections 13 and 14 would take effect upon passage. The
4 remainder of the act would take effect upon approval of the question provided for in Section 13.
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