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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 THE CONSTRUCTION OF A BEACH PAVILION, INCLUDING A BATHHOUSE, CONCESSION STAND AND OTHER RELATED BEACH FACILITIES, AND IMPROVEMENTS TO RECREATIONAL AREAS IN THE TOWN BY THE ISSUANCE OF NOT MORE THAN \$6,000,000 BONDS AND/OR NOTES THEREFOR

Introduced By: Representatives Ruggiero, Jackson, and Reilly

Date Introduced: May 30, 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 six million dollars (\$6,000,000)  
3 from time to time under its corporate name and seal. The bonds of each issue may be issued in the  
4 form of zero coupon bonds, capital appreciation bonds, serial bonds or term bonds or a  
5 combination thereof and shall be payable either by maturity of principal in the case of serial  
6 bonds or by mandatory serial redemption in the case of term bonds, in annual installments of  
7 principal, the first installment to be not later than five (5) years and the last installment not later  
8 than thirty (30) years after the date of the bonds. The amount of principal appreciation each year  
9 on any bonds, after the date of original issuance, shall not be considered to be principal  
10 indebtedness for the purposes of any constitutional or statutory debt limit or any other limitation.  
11 The appreciation of principal after the date of original issue shall be considered interest. Only the  
12 original principal amount shall be counted in determining the principal amount so issued and any  
13 interest component shall be disregarded. For each issue the amounts payable annually for  
14 principal and interest combined either shall be as nearly equal from year to year as is practicable  
15 in the opinion of the officers authorized to issue the bonds, or shall be arranged in accordance  
16 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 the construction of a beach pavilion, including a bathhouse, concession stand  
10 and other related beach facilities, and for improvements to recreational areas in the town, (b) For  
11 payment of the principal or interest on temporary notes issued under section three, (c) In payment  
12 of capitalized interest on bonds or notes (d) In repayment of advances under section four, or (e) In  
13 payment of related costs of issuance of any bonds or notes. No purchaser of any bonds or notes  
14 under this act shall be in any way responsible for the proper application of the proceeds derived  
15 from the sales thereof. The project shall be carried out and all contracts made therefor on behalf  
16 of the town by the town council. The proceeds of bonds or notes issued under this act, any  
17 applicable federal or state assistance and other moneys referred to in section six and nine, shall be  
18 deemed appropriated for the purposes of this act without further action than that required by this  
19 act. The bond issue authorized by this act may be consolidated for the purposes of issuance and  
20 sale with any other bond issue of the town heretofore or hereafter authorized, provided that,  
21 notwithstanding any such consolidation, the proceeds from the sale of the bonds authorized by  
22 this act shall be expended for the purposes set forth above. The town finance director and the  
23 president of the town council, on behalf of the town, are hereby authorized to execute such  
24 instruments, documents or other papers as either of them deem necessary or desirable to carry out  
25 the intent of this act and are also authorized to take all actions and execute all documents or  
26 agreements necessary to comply with federal tax and securities laws, which documents or  
27 agreements may have a term coextensive with the maturity 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 or more of the foregoing. The cost of preparing,  
12 issuing and marketing bonds or notes hereunder may also, in the discretion of the town finance  
13 director, be met from bond or note proceeds exclusive of accrued interest or from other moneys  
14 available therefor. Any balance of bond or note proceeds remaining after payment of the cost of  
15 the projects and the cost of preparing, issuing and marketing bonds or notes hereunder shall be  
16 applied to the payment of the principal of or interest on bonds or notes issued hereunder. To the  
17 extent permitted by applicable federal laws, any earnings or net profit realized from the deposit or  
18 investment of funds hereunder may, upon receipt, be added to and dealt with as part of the  
19 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 for,  
3 contract for and expend any federal or state advances or other grants or assistance which may be  
4 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 on a date as shall be designated by the town council.  
33 The question shall be submitted in substantially the following form: "Shall an act, passed at the  
34 2012 session of the general assembly, entitled 'AN ACT AUTHORIZING THE TOWN OF

1 MIDDLETOWN TO FINANCE THE CONSTRUCTION OF A BEACH PAVILION,  
2 INCLUDING A BATHHOUSE, CONCESSION STAND AND OTHER RELATED BEACH  
3 FACILITIES, AND IMPROVEMENTS TO RECREATIONAL AREAS IN THE TOWN BY  
4 THE ISSUANCE OF NOT MORE THAN \$6,000,000 BONDS AND/OR NOTES THEREFOR'  
5 be approved?" and the warning for the election shall contain the question to be submitted. From  
6 the time the election is warned and until it is held, it shall be the duty of the town clerk to keep a  
7 copy of the act available at his office for public inspection, but the validity of the election shall  
8 not be affected by this requirement.

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

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