

2020 -- S 2863

LC005411

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

A N A C T

AUTHORIZING THE TOWN OF MIDDLETOWN TO FINANCE ACQUIRING AND PRESERVING OPEN SPACE AND ACQUIRING, PRESERVING, RESTORING AND IMPROVING RECREATIONAL AREAS IN THE TOWN BY THE ISSUANCE OF NOT MORE THAN \$5,000,000 BONDS AND/OR NOTES THEREFOR

Introduced By: Senator Louis P. DiPalma

Date Introduced: June 10, 2020

Referred To: Senate 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 five million dollars (\$5,000,000)
3 from time to time under its corporate name and seal. The bonds of each issue may be issued in the
4 form of serial bonds or term bonds or a combination thereof and shall be payable either by maturity
5 of principal in the case of serial bonds or by mandatory sinking fund redemption in the case of term
6 bonds, in annual installments of principal, the first installment to be not later than five (5) years and
7 the last installment not later than thirty (30) years after the date of the bonds.

8 All such bonds of a particular issue may be issued in the form of zero coupon bonds, capital
9 appreciation bonds, serial bonds or term bonds or any combination thereof. The amount of principal
10 appreciation each year on any bonds, after the date of original issuance, shall not be considered to
11 be principal indebtedness for the purposes of any constitutional or statutory debt limit or any other
12 limitation. The appreciation of principal after the date of original issue shall be considered interest.
13 Only the original principal amount shall be counted in determining the principal amount so issued
14 and any interest component shall be disregarded.

15 SECTION 2. The bonds shall be signed by the town finance director and by the president
16 of the town council and shall be issued and sold in such amounts as the town council may authorize.
17 The manner of sale, denominations, maturities, interest rates and other terms, conditions and details

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

25 SECTION 3. The town council may by resolution authorize the issue from time to time of
26 interest bearing or discounted notes in anticipation of the issue of bonds or in anticipation of the
27 receipt of federal or state aid for the purposes of this act. The amount of original notes issued in
28 anticipation of bonds may not exceed the amount of bonds which may be issued under this act and
29 the amount of original notes issued in anticipation of federal or state aid may not exceed the amount
30 of available federal or state aid as estimated by the town finance director. Temporary notes issued
31 hereunder shall be signed by the manual or facsimile signatures of the town finance director and
32 by the president of the town council and shall be payable within five (5) years from their respective
33 dates, but the principal of and interest on notes issued for a shorter period may be renewed or paid
34 from time to time by the issue of other notes hereunder, provided the period from the date of an

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

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

28 SECTION 5. Any proceeds of bonds or notes issued hereunder or of any applicable federal
29 or state assistance, pending their expenditure, may be deposited or invested by the town finance
30 director in demand deposits, time deposits or savings deposits in banks which are members of the
31 Federal Deposit Insurance Corporation or in obligations issued or guaranteed by the United States
32 of America or by any agency or instrumentality thereof or as may be provided in any other
33 applicable law of the state of Rhode Island or resolution of the town council or pursuant to an
34 investment policy of the town.

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

18 SECTION 7. All bonds and notes issued under this act and the debts evidenced thereby
19 shall be obligatory on the town in the same manner and to the same extent as other debts lawfully
20 contracted by it and shall be excepted from the operation of § 45-12-2 of the general laws and
21 provisions of the town charter. No such obligation shall at any time be included in the debt of the
22 town for the purpose of ascertaining its borrowing capacity. The town shall annually appropriate a
23 sum sufficient to pay the principal and interest coming due within the year on bonds and notes
24 issued hereunder to the extent that moneys therefor are not otherwise provided.

25 If such sum is not appropriated, it shall nevertheless be added to the annual tax levy. In
26 order to provide such sum in each year and notwithstanding any provision of law to the
27 contrary, all taxable property in the town shall be subject to ad valorem taxation by the
28 town without limitation as to rate or amount.

29 SECTION 8. Any bonds or notes issued under the provisions of this act, if properly
30 executed by officers of the town in office on the date of execution, shall be valid and binding
31 according to their terms notwithstanding that before the delivery thereof and payment therefor
32 any or all of such officers shall for any reason have ceased to hold office.

33 SECTION 9. The town, acting by resolution of its town council is authorized to apply for,
34 contract for and expend any federal or state advances or other grants or assistance which may be

1 available for the purposes of this act, and any such expenditures may be in addition to other moneys
2 provided in this act. To the extent of any inconsistency between any law of this state and any
3 applicable federal law or regulation, the latter shall prevail. Federal and state advances, with
4 interest where applicable, whether contracted for prior to or after the effective date of this act, may
5 be repaid as project costs under section two.

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

15 SECTION 11. All or any portion of the authority to issue bonds and notes under this act
16 may be extinguished by resolution of the town council, without further action by the general
17 assembly, seven (7) years after the effective date of this act.

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

27 SECTION 13. The question of the approval of this act shall be submitted to the electors of
28 the town at the election to be held on November 3, 2020 or such other general or special election
29 (other than a primary) to be held on a date, as shall be designated by the town council.

30 The question shall be submitted in substantially the following form: "Shall an act, passed
31 at the 2020 session of the general assembly, entitled "AN ACT AUTHORIZING THE TOWN OF
32 MIDDLETOWN TO FINANCE ACQUIRING AND PRESERVING OPEN SPACE AND
33 ACQUIRING, PRESERVING, RESTORING AND IMPROVING RECREATIONAL AREAS IN
34 THE TOWN BY THE ISSUANCE OF NOT MORE THAN \$5,000,000 BONDS AND/OR

1 NOTES THEREFOR" be approved?" and the warning for the election shall contain the question to
2 be submitted. From the time the election is warned and until it is held, it shall be the duty of the
3 town clerk to keep a copy of the act available at the clerk's office for public inspection, but the
4 validity of the election shall not be affected by this requirement.

5 SECTION 14. Sections 13 and 14 shall take effect upon the passage of this act. The
6 remainder of this act shall take effect upon the approval of this act by a majority of those voting on
7 the question at the election prescribed by section 13.

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EXPLANATION

OF

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AUTHORIZING THE TOWN OF MIDDLETOWN TO FINANCE ACQUIRING AND PRESERVING OPEN SPACE AND ACQUIRING, PRESERVING, RESTORING AND IMPROVING RECREATIONAL AREAS IN THE TOWN BY THE ISSUANCE OF NOT MORE THAN \$5,000,000 BONDS AND/OR NOTES THEREFOR

- 1 This act authorizes the town of Middletown to issue not more than \$5,000,000 bonds and
2 notes to finance acquiring and preserving open space and acquiring, preserving, restoring, and
3 improving of recreational areas in the town. Sections 13 and 14 shall 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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