

**2020 -- H 8125**

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LC005553  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2020**

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**A N A C T**

**AUTHORIZING THE TOWN OF CUMBERLAND TO ISSUE GENERAL OBLIGATION BONDS AND/OR NOTES IN AN AMOUNT NOT TO EXCEED \$2,500,000 TO FINANCE THE DEVELOPMENT, CONSTRUCTION, RENOVATION, IMPROVEMENT, ALTERATION, REPAIR AND EQUIPPING OF RECREATIONAL AREAS AND FACILITIES IN THE TOWN**

Introduced By: Representative James N. McLaughlin

Date Introduced: August 13, 2020

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

1           SECTION 1 The town of Cumberland is hereby empowered, in addition to authority  
2 previously granted, to issue general obligation bonds and notes to an amount not exceeding two  
3 million five hundred thousand dollars (\$2,500,000) from time to time under its corporate name and  
4 seal. The bonds of each issue may be issued in the form of serial bonds or term bonds or a  
5 combination thereof and shall be payable either by maturity of principal in the case of serial bonds  
6 or by mandatory serial redemption in the case of term bonds, in annual installments of principal,  
7 provided that the final maturity of such bonds shall not exceed thirty (30) years from and after the  
8 date the bonds are issued. All such bonds of a particular issue may be issued in the form of zero  
9 coupon bonds, capital appreciation bonds, serial bonds or term bonds or a combination thereof, and  
10 may bear interest at a fixed rate or rates or at a variable or auction rate or rates. The bonds may be  
11 sold by a negotiated sale or by competitive bid and issued pursuant to a resolution or an indenture  
12 of trust. Annual installments of principal may be provided for by maturity of principal in the case  
13 of serial bonds or by mandatory serial redemption in the case of term bonds. The amount of  
14 principal appreciation each year on any bonds, after the date of original issuance, shall not be  
15 considered to be principal indebtedness for the purposes of any constitutional or statutory debt limit  
16 or any other limitation. The appreciation of principal after the date of original issue shall be  
17 considered interest. Only the original principal amount shall be counted in determining the principal

1 amount so issued and any interest component shall be disregarded.

2 SECTION 2. The bonds shall be signed by the finance director and the mayor and shall be  
3 issued and sold in such amounts as the town council may authorize. The manner of sale,  
4 denominations, maturities, interest rates and other terms, conditions and details of any bonds or  
5 notes issued under this act may be fixed by the proceedings of the town council authorizing the  
6 issue or by separate resolution of the town council or, to the extent provisions for these matters are  
7 not so made, they may be fixed by the officers authorized to sign the bonds or notes. The proceeds  
8 derived from the sale of the bonds shall be delivered to the finance director, and such proceeds,  
9 exclusive of premiums and accrued interest, shall be expended: (1) for the purpose of financing the  
10 development, construction, renovation, improvement, alteration, repair and equipping of  
11 recreational areas and facilities in the town; (2) in payment of the principal of and/or interest on  
12 temporary notes issued under section 3; (3) in repayment of advances made pursuant to section 4;  
13 and/or (4) in payment of costs of issuance associated with the issuance of bonds or notes hereunder.  
14 No purchaser of any bonds or notes under this act shall be in any way responsible for the proper  
15 application of the proceeds derived from the sale thereof. The proceeds of bonds or notes issued  
16 under this act, any applicable federal or state assistance and the other monies referred to in sections  
17 6 and 9, shall be deemed appropriated for the purpose of this act without further action than that  
18 required by this act. This bond issue authorized by this act may be consolidated for the purpose of  
19 issuance and sale with any other bond issue of the town heretofore or hereafter authorized, provided  
20 that, notwithstanding any such consolidation, the proceeds from the sale of the bonds authorized  
21 by this act shall be expended for the purposes set forth above. The finance director and the mayor,  
22 on behalf of the town, are hereby authorized to execute such instruments, documents or other papers  
23 as either of them deem necessary or desirable to carry out the intent of this act and are also  
24 authorized to take all actions and execute all documents or agreements necessary to comply with  
25 federal tax and securities laws, which documents or agreements may have a term coextensive with  
26 the maturity of the bonds authorized hereby, including Rule 15c2-12 of the Securities and Exchange  
27 Commission and to execute and deliver a continuing disclosure agreement or certificate in  
28 connection with the bonds or notes.

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

1 hereunder shall be signed by the finance director and the mayor and shall be payable within five  
2 (5) years from their respective dates, but the principal of and interest on notes issued for a shorter  
3 period may be renewed or paid from time to time by the issue of other notes hereunder, provided  
4 the period from the date of an original note to the maturity of any notes issued to renew or pay the  
5 same debt or the interest thereon shall not exceed five (5) years. Any temporary notes in anticipation  
6 of 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 amount  
9 of bonds which may be issued under this act, and provided further that if the issuance of any such  
10 refunding notes results in any amount of such temporary notes outstanding at any one time in excess  
11 of the amount of bonds which may be issued under this act, the proceeds of such refunding notes  
12 shall be deposited in a separate fund established with the bank which is paying agent for the notes  
13 being refunded. Pending their use to pay the notes being refunded, monies in the fund shall be  
14 invested for the benefit of the town by the paying agent at the direction of the finance director in  
15 any investment permitted under section 5. The monies in the fund and any investments held as a  
16 part of the fund shall be held in trust and shall be applied by the paying agent solely to the payment  
17 or prepayment of the principal of and interest on the notes being refunded. Upon payment of all  
18 principal of and interest on the notes, any excess monies in the fund shall be distributed to the town.  
19 The town may pay the principal of and interest on notes in full from other than the issuance of  
20 refunding notes prior to the issuance of bonds pursuant to section 1 hereof. In such case, the town's  
21 authority to issue bonds or notes in anticipation of bonds under this act shall continue provided  
22 that: (1) the town council passes a resolution evidencing the town's intent to pay off the notes; and  
23 (2) that the period from the date of an original note to the maturity date of any other notes shall not  
24 exceed five (5) years.

25 SECTION 4. Pending any authorization or issue of bonds hereunder or pending or in lieu  
26 of any authorization or issue of notes hereunder, the finance director, with the approval of the town  
27 council, may, to the extent that bonds or notes may be issued hereunder, apply funds in the treasury  
28 of the town to the purposes specified in section 2, such advances to be repaid without interest from  
29 the proceeds of bonds or notes subsequently issued or from the proceeds of applicable federal or  
30 state assistance or from other available funds.

31 SECTION 5. Any proceeds of bonds or notes issued hereunder or of any applicable federal  
32 or state assistance, pending their expenditure, may be deposited or invested by the finance director  
33 in demand deposits, time deposits or savings deposits in banks which are members of the Federal  
34 Deposit Insurance Corporation or in obligations issued or guaranteed by the United States of

1 America or by any agency or instrumentality thereof or as may be provided in any other applicable  
2 law of the state of Rhode Island or resolution of the town council or pursuant to an investment  
3 policy of the town.

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

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

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

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

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

16 SECTION 11. The question of the approval of this act shall be submitted to the electors of  
17 the town at the general election to be held on November 3, 2020 or at a general or special election  
18 (other than a primary election) to be held on a date as shall be designated by the town council. The  
19 question shall be submitted in substantially the following form: "Shall an act, passed at the 2020  
20 session of the general assembly, entitled 'AN ACT AUTHORIZING THE TOWN OF  
21 CUMBERLAND TO ISSUE GENERAL OBLIGATION BONDS AND/OR NOTES IN THE  
22 AMOUNT NOT TO EXCEED \$2,500,000 TO FINANCE THE DEVELOPMENT,  
23 CONSTRUCTION, RENOVATION, IMPROVEMENT, ALTERATION, REPAIR AND  
24 EQUIPPING OF RECREATIONAL AREAS AND FACILITIES IN THE TOWN' be approved?"  
25 The warning for the election shall contain the question to be submitted. From the time the election  
26 is warned and until it is held, it shall be the duty of the town clerk to keep a copy of the act available  
27 at his or her office for public inspection, but the validity of the election shall not be affected by this  
28 requirement. To the extent of any inconsistency between this act and the town charter, this act shall  
29 prevail.

30 SECTION 12. All or any portion of the authorized but unissued authority to issue bonds  
31 and notes under this act may be extinguished by resolution of the town council, without further  
32 action by the general assembly, seven (7) years after the effective date of this act.

33 SECTION 13. Sections 11 and 13 shall take effect upon the passage of this act. The  
34 remainder of this act shall take effect upon the approval of this act by a majority of those voting on

1 the question at the election prescribed by Section 11.

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EXPLANATION

OF

A N A C T

AUTHORIZING THE TOWN OF CUMBERLAND TO ISSUE GENERAL OBLIGATION BONDS AND/OR NOTES IN AN AMOUNT NOT TO EXCEED \$2,500,000 TO FINANCE THE DEVELOPMENT, CONSTRUCTION, RENOVATION, IMPROVEMENT, ALTERATION, REPAIR AND EQUIPPING OF RECREATIONAL AREAS AND FACILITIES IN THE TOWN

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1           This act would authorize the town of Cumberland to issue two million five hundred  
2 thousand dollars (\$2,500,000) of general obligation bonds and notes in order to finance the  
3 development, construction, renovation, improvement, alteration, repair and equipping of  
4 recreational areas and facilities in the town.

5           Sections 11 and 13 would take effect upon passage. The remainder of the act would take  
6 effect upon approval of the act by the electors of the town of Cumberland.

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