

2016 -- S 2045

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

A N A C T

AUTHORIZING THE TOWN OF MIDDLETOWN TO FINANCE THE DESIGN, CONSTRUCTION, REPAIR, REHABILITATION AND IMPROVEMENT OF STREETS AND SIDEWALKS IN THE TOWN, INCLUDING, BUT NOT LIMITED TO, PAVING, DRAINAGE, TRAFFIC CONTROL DEVICES, SAFETY IMPROVEMENTS AND LANDSCAPING BY THE ISSUANCE OF NOT MORE THAN \$5,000,000 BONDS AND/OR NOTES THEREFOR

Introduced By: Senator Louis P. DiPalma

Date Introduced: January 13, 2016

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 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.

1 SECTION 2. The bonds shall be signed by the town finance director and by the president
2 of the town council and shall be issued and sold in such amounts as the town council may
3 authorize. The manner of sale, denominations, maturities, interest rates and other terms,
4 conditions and details of any bonds or notes issued under this act may be fixed by the proceedings
5 of the town council authorizing the issue or by separate resolution of the town council or, to the
6 extent provisions for these matters are not so made, they may be fixed by the officers authorized
7 to sign the bonds or notes. Notwithstanding anything contained in this act, the town may enter
8 into financing agreements with the Rhode Island Infrastructure Bank ("RIIB ") or any agency or
9 instrumentality of the state of Rhode Island succeeding to its functions. Interest coupons (if any)
10 shall bear the manual or facsimile signature of the town finance director. The proceeds derived
11 from the sale of the bonds shall be delivered to the town finance director, and such proceeds
12 exclusive of premiums and accrued interest shall be expended: (1) For the design, construction,
13 repair, rehabilitation and improvement of streets and sidewalks in the town, including, but not
14 limited to, paving, drainage, traffic control devices, safety improvements and landscaping; (2) For
15 payment of the principal or interest on temporary notes issued under section 3; (3) In payment of
16 capitalized interest on bonds or notes; (4) In repayment of advances under section 4; or (5) In
17 payment of related costs of issuance of any bonds or notes. No purchaser of any bonds or notes
18 under this act shall be in any way responsible for the proper application of the proceeds derived
19 from the sales thereof. The project shall be carried out and all contracts made therefor on behalf
20 of the town by the town council. The proceeds of bonds or notes issued under this act, any
21 applicable federal or state assistance and other monies referred to in section 6 and 9, shall be
22 deemed appropriated for the purposes of this act without further action than that required by this
23 act. The bond issue authorized by this act may be consolidated for the purposes of issuance and
24 sale with any other bond issue of the town heretofore or hereafter authorized, provided that,
25 notwithstanding any such consolidation, the proceeds from the sale of the bonds authorized by
26 this act shall be expended for the purposes set forth above. The town finance director and the
27 president of the town council, on behalf of the town, are hereby authorized to execute such
28 instruments, documents or other papers as either of them deem necessary or desirable to carry out
29 the intent of this act and are also authorized to take all actions and execute all documents or
30 agreements necessary to comply with federal tax and securities laws, which documents or
31 agreements may have a term coextensive with the maturity of the bonds authorized hereby.

32 SECTION 3. The town council may by resolution authorize the issue from time to time of
33 interest bearing or discounted notes in anticipation of the issue of bonds or in anticipation of the
34 receipt of federal or state aid for the purposes of this act. The amount of original notes issued in

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

30 SECTION 4. Pending any authorization or issue of bonds hereunder or pending or in lieu
31 of any authorization or issue of notes hereunder, the town finance director, with the approval of
32 the town council, may, to the extent that bonds or notes may be issued hereunder, apply funds in
33 the treasury of the town to the purposes specified in section 2, such advances to be repaid without
34 interest from the proceeds of bonds or notes subsequently issued or from the proceeds of

1 applicable federal or state assistance or from other available funds.

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

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

26 SECTION 7. All bonds and notes issued under this act and the debts evidenced thereby
27 shall be obligatory on the town in the same manner and to the same extent as other debts lawfully
28 contracted by it and shall be excepted from the operation of §45-12-2 of the general laws. No
29 such obligation shall at any time be included in the debt of the town for the purpose of
30 ascertaining its borrowing capacity. The town shall annually appropriate a sum sufficient to pay
31 the principal and interest coming due within the year on bonds and notes issued hereunder to the
32 extent that monies therefor are not otherwise provided. If such sum is not appropriated, it shall
33 nevertheless be added to the annual tax levy. In order to provide such sum in each year and
34 notwithstanding any provision of law to the contrary, all taxable property in the town shall be

1 subject to ad valorem taxation by the town without limitation as to rate or amount.

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

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

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

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

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

34 SECTION 13. The question of the approval of this act shall be submitted to the electors

1 of the town at a general, special or local election (other than a primary) to be held prior to
2 December 31, 2016, as shall be designated by the town council. The question shall be submitted
3 in substantially the following form: "Shall an act, passed at the 2016 session of the general
4 assembly, entitled "AN ACT AUTHORIZING THE TOWN OF MIDDLETOWN TO FINANCE
5 THE DESIGN, CONSTRUCTION, REPAIR, REHABILITATION AND IMPROVEMENT OF
6 STREETS AND SIDEWALKS IN THE TOWN, INCLUDING, BUT NOT LIMITED TO,
7 PAVING, DRAINAGE, TRAFFIC CONTROL DEVICES, SAFETY IMPROVEMENTS AND
8 LANDSCAPING BY THE ISSUANCE OF NOT MORE THAN \$5,000,000 BONDS AND/OR
9 NOTES THEREFOR" be approved?" and the warning for the election shall contain the question
10 to be submitted. From the time the election is warned and until it is held, it shall be the duty of the
11 town clerk to keep a copy of the act available at the clerk's office for public inspection, but the
12 validity of the election shall not be affected by this requirement.

13 SECTION 14. This section and the foregoing section shall take effect upon the passage of
14 this act. The remainder of this act shall take effect upon the approval of this act by a majority of
15 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 THE DESIGN, CONSTRUCTION, REPAIR, REHABILITATION AND IMPROVEMENT OF STREETS AND SIDEWALKS IN THE TOWN, INCLUDING, BUT NOT LIMITED TO, PAVING, DRAINAGE, TRAFFIC CONTROL DEVICES, SAFETY IMPROVEMENTS AND LANDSCAPING 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 the design, construction, repair, rehabilitation and improvement of streets and
3 sidewalks in the town, including, but not limited to, paving, drainage, traffic control devices,
4 safety improvements and landscaping.

5 Sections 13 and 14 would take effect upon passage. The remainder of the act would take
6 effect upon approval of the question provided for in section 13.

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