



Bill No. 19-19

Concerning: General Obligation Bond Authorization

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Introduced: December 17, 2019

Revised: \_\_\_\_\_ Draft No. \_\_\_\_\_

Enacted: \_\_\_\_\_

Effective: \_\_\_\_\_

Expires: March 16, 2020

Frederick County Code, Chapter \_\_\_\_\_

Section(s) \_\_\_\_\_

# COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council President M.C. Keegan-Ayer on behalf of County Executive Jan Gardner

**AN ACT** to: Authorize the issuance of General Obligation Bonds.

Executive: \_\_\_\_\_ Date Received: \_\_\_\_\_

Approved: \_\_\_\_\_ Date: \_\_\_\_\_

Vetoed: \_\_\_\_\_ Date: \_\_\_\_\_

By amending:

Frederick County Code, Chapter, \_\_\_\_\_ Section(s) \_\_\_\_\_

Other: \_\_\_\_\_

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law.</i>
[Single boldface brackets]	<i>Deleted from existing law.</i>
***	<i>Existing law unaffected by bill.</i>

Bill No. 19-19

The County Council of Frederick County, Maryland, finds it necessary and appropriate to authorize the County, from time to time, to borrow not more than Two Hundred Million Dollars (\$200,000,000) for the purpose of financing the costs of certain public facilities in Frederick County described herein, and to effect such borrowing by the issuance and sale of its general obligation bonds in one or more series, in accordance with the provisions of Section 10-203 of the Local Government Article of the Annotated Code, as amended.

**NOW, THEREFORE,** Be it Hereby Enacted by the County Council of Frederick County, State of Maryland as follows:

Section 1. Pursuant to Section 10-203 of the Local Government Article of the Annotated Code of Maryland, as amended (the “Bond Act”), Frederick County, Maryland (the “County”) is hereby authorized and empowered to borrow money and incur indebtedness for the public purposes described in Section 2 hereof, in an amount not to exceed, in the aggregate, Two Hundred Million Dollars (\$200,000,000) and to evidence such borrowing by issuing, selling and delivering its bonds, at any time or from time to time and in one or more series, in an aggregate principal amount not to exceed in the aggregate, Two Hundred Million Dollars (\$200,000,000) (the “Bonds”), subject to the provisions and conditions of this Act.

Section 2. The proceeds from the sale of the Bonds (including any premium received upon the sale of the Bonds) may be applied for the public purpose of financing, refinancing or reimbursing expenditures made for all or a portion of the costs of the acquisition, planning, design, construction, repair, renovation, reconstruction, alteration and equipping of any project included in the County’s approved Capital Improvement Program, together with the costs of issuing the Bonds (which costs may include the costs of bond insurance or other credit enhancement) (collectively, the “Public Facilities”), including but not limited to landfill projects, public schools, roads, bridges, flood control project, solid waste facilities, water and leachate treatment facilities, libraries, easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural land or woodland, and communication systems, including the development of property, the acquisition and installation of equipment and furnishings, together with any related architectural, financial, legal, planning or engineering services and capitalized interest during construction and for a reasonable period thereafter, whether or not specifically stated.

The use of the proceeds of the Bonds by the County to finance the costs of the Public Facilities is a proper public purpose which may be financed by the issuance of the Bonds pursuant to the Bond Act.

Section 3. For the purpose of paying the interest on and redeeming and paying the Bonds as they mature, in each and every fiscal year that any of the Bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the legally assessable property within the corporate limits of the County, in rate and amount sufficient to provide for the payment, when due, of the principal of and interest on all of the Bonds maturing in each such fiscal year and, if the proceeds from the taxes so levied in any fiscal year prove inadequate for such payment,

additional taxes shall be levied in the succeeding fiscal year to make up any deficiency. In case the Bonds shall be issued in any fiscal year after the making of the regular levy for that fiscal year, any and all interest becoming due before the next levy shall be paid out of any other funds at the disposal of the County and there shall be levied at the next succeeding levy an amount sufficient to reimburse such other funds. The County may apply to the payment of the principal of and interest on any Bonds issued hereunder any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality of either, or from any other source. Taxes that might otherwise be required to be levied under this Act may be reduced or need not be levied to the extent that any such funds are received or receivable in any fiscal year.

Section 4. The full faith and credit and unlimited taxing power of the County are hereby irrevocably pledged to the payment of the maturing principal of and interest on the Bonds as and when such principal and interest respectively mature and to the levy and collection of the taxes prescribed in this Section as and when such taxes may become necessary in order to provide sufficient funds to meet the debt service requirements of the Bonds.

Section 5. Prior to the issuance of all or any part of the Bonds, the County Executive shall execute and deliver an executive order to fix, prescribe and determine, or provide for the method of determining, the title, date of issue, and denomination(s) of the Bonds, the aggregate principal amount of and maturity schedule for the Bonds, the form and tenor thereof, the places of payment of the principal thereof and the interest to accrue thereon, any registrar and/or paying agent for such bonds, the reserved right, if any, to redeem the Bonds prior to maturity and the premium, if any, payable upon the exercise of said right, the rate or rates of interest payable on the Bonds, or the method of determining the same, details relating to the sale of the Bonds (which may be at private (negotiated) sale, or at public sale by competitive bid, the Bonds to be sold in such manner and upon such terms as the County Executive deems to be in the best interest of the County), the allocation of bond proceeds to one or more of the Public Facilities, the award of the Bonds to the purchaser thereof, the price at which the Bonds shall be sold (which may be at, above or below par), the application of any premium paid to the County upon the sale of the Bonds, and any other details, terms or conditions relating to the issuance, sale, delivery and payment of the Bonds. The Bonds shall be executed in the name of the County and on its behalf by the manual or facsimile signatures of the County Executive and the Director of Finance and the corporate seal of the County or a facsimile thereof, shall be imprinted or otherwise reproduced thereon, and attested by the manual or facsimile signature of the Chief Administrative Officer of the County. In the event that the net proceeds of a sale of Bonds shall exceed the amounts necessary to finance, refinance or reimburse the costs of the Public Facilities specified in such executive order, the County Executive may supplement or amend such executive order to authorize the use of such excess proceeds of the Bonds to finance, refinance or reimburse the costs of such other Public Facilities as the County Executive may determine.

Section 6. Under Section 19-101 of the Local Government Article of the Annotated Code of Maryland, as amended, the County Council authorizes the County to consolidate for sale and issue, sell and deliver all or any portion of the Bonds and any other bonds authorized by any other law as a single issue of bonds, at any time and from time to time.

Section 7. The Bonds and their issuance and sale shall be exempt from the provisions of Sections 19-205 and 19-206 of the Local Government Article of the Annotated Code of Maryland, as amended.

Section 8. Pursuant to Part III of Subtitle 2 of the Local Government Article of the Annotated Code of Maryland, as amended, and this Act, the County may issue and sell bond anticipation notes (the “Notes”) in one or more series prior to and in anticipation of the issuance and sale of the Bonds. Prior to the issuance, sale and delivery of any Notes, the County Executive shall execute and deliver an executive order authorizing the Notes and specifying, prescribing, determining, providing for and approving all matters, details, forms, documents and procedures necessary to effect the sale, security, issuance, delivery and payment of and for the Notes. The County covenants that (a) it will pay the principal of and interest on the Notes, to the extent not paid from the proceeds of the sale of the Notes, from the proceeds of the Bonds, and (b) it will issue the Bonds when, and as soon as, the reason for deferring their issuance no longer exists.

Section 9. Nothing in this Act shall prevent the County from issuing and selling all or any part of the Bonds as bonds the interest on which is not excludable from gross income for federal income tax purposes.

Section 10. The County designates the County Executive as the person to declare the official intent of the County in those instances in which expenditures are to be made for Public Facilities with the expectation that such expenditures are to be reimbursed from the proceeds of tax-exempt bonds. In exercising the authority granted by the foregoing designation, the County Executive is further authorized to take any and all such action as may be required or appropriate to assure compliance by the County with applicable provisions of the Internal Revenue Code and Section 1.150-2 of the Income Tax Regulations. The designation made herein may be delegated in writing by the County Executive to one or more designees.

Section 11. The authority to borrow money and to issue bonds conferred on the County by this Act shall be deemed to provide additional, alternative and supplemental authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all previously enacted laws authorizing the County to borrow money are hereby continued to the extent that the power contained in them is continuing or has not been exercised, unless any law is expressly repealed by this Act, and the validity of any bonds issued under previously enacted laws is hereby ratified, confirmed and approved. This Act, being necessary for the welfare of the inhabitants of Frederick County, shall be liberally construed to affect its purposes.

Section 12. The provisions of this Act are severable, and if any provision, sentence, clause, section or part hereof is held to be illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Act or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Act would have been passed if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included herein, and if the person or circumstances to which this Act or any part hereof are inapplicable had been specifically exempted therefrom.

Section 13. And Be It Further Enacted that this Act shall take effect on \_\_\_\_\_, 2019 when it becomes law.

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M.C. Keegan-Ayer, President  
County Council of Frederick County,  
Maryland