

Bill No. 20-06

Concerning: General Obligation Debt Authorization

Introduced: May 26, 2020

Revised: _____ Draft No. _____

Enacted: June 9, 2020

Effective: August 8, 2020

Expires: August 24, 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

EXPEDITED LEGISLATION to: Authorize the incurrence of general obligation debt in an amount not to exceed One Hundred Million dollars (\$100,000,000) to fund short-term working capital needs.

Executive: *Jan H. Gardner* Date Received: June 16, 2020
Approved: ✓ Date: 6-16-2020
Vetoed: _____ Date: _____

By amending:

Frederick County Code, Chapter, _____ Section(s) _____

Other: _____

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|----------------------------|---|
| Boldface | <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> |

On March 5, 2020, the Governor of Maryland declared a state of emergency in Maryland due to the ramifications of the novel coronavirus (“COVID-19”). On March 26, 2020, the President of the United States approved such declaration. As a result of such declarations and other facts and circumstances relating to COVID-19, Frederick County, Maryland (the “County”) anticipates that revenue collection (including, without limitation, property tax collection, income tax collection and recordation tax collection) may be significantly delayed or otherwise adversely affected.

The County Council of Frederick County, Maryland, finds it necessary and appropriate to enact expedited legislation to authorize the County, from time to time, to borrow, upon the full faith and credit of the County, not more than One Hundred Million Dollars (\$100,000,000) in the aggregate for the purpose of financing short-term working capital needs of Frederick County Government described herein, and to effect such borrowing by obtaining or otherwise entering into one or more lines of credit, letters of credit, loan agreements, bonds, notes or similar borrowing facilities (the “Facilities”) 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 as expedited legislation 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 “Borrowing Act”), 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, One Hundred Million Dollars (\$100,000,000) and to evidence such borrowing by executing and delivering the Facilities, 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, One Hundred Million Dollars (\$100,000,000) subject to the provisions and conditions of this Act.

Section 2. The proceeds received by the County from the Facilities, whether upon the initial execution and delivery thereof or from amounts advanced from time to time pursuant to the terms thereof, may be applied for the public purpose of paying any properly budgeted expense of the County, together with the costs of or related to entering into the Facilities (collectively, the “Public Expenditures”).

The use of the proceeds of the Facilities by the County to finance the costs of the Public Expenditures is a proper public purpose which may be financed by the execution and delivery of the Facilities pursuant to the Borrowing Act.

Section 3. For the purpose of paying the debt service requirements with respect to the Facilities (including the interest and the principal amounts payable with respect to the Facilities, whether by scheduled installment, redemption, maturity or as they otherwise become due), in each and every fiscal year that any amounts under any of the Facilities are outstanding, the County shall

1 levy or cause to be levied ad valorem taxes upon all the legally assessable property within the
2 corporate limits of the County, in rate and amount sufficient to provide for the payment, when due,
3 of the debt service payable with respect to all of the Facilities as may be due and payable in each
4 such fiscal year and, if the proceeds from the taxes so levied in any fiscal year prove inadequate
5 for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any
6 deficiency. In case amounts shall be borrowed pursuant to the Facilities in any fiscal year after
7 the making of the regular levy for that fiscal year, any and all interest becoming due before the
8 next levy shall be paid out of any other funds at the disposal of the County and there shall be levied
9 at the next succeeding levy an amount sufficient to reimburse such other funds. The County may
10 apply to the payment of the debt service requirements with respect to the Facilities any funds
11 received by it from the State of Maryland, the United States of America, any agency or
12 instrumentality of either, or from any other source. Taxes that might otherwise be required to be
13 levied under this Act may be reduced or need not be levied to the extent that any such funds are
14 received or receivable in any fiscal year.

15 Section 4. The full faith and credit and unlimited taxing power of the County are hereby
16 irrevocably pledged to the payment of the debt service requirements with respect to the Facilities
17 as and when such amounts are due and payable and to the levy and collection of the taxes
18 prescribed in this Act as and when such taxes may become necessary in order to provide sufficient
19 funds to meet the debt service requirements of the Facilities.

20 Section 5. The County Executive is authorized to execute and deliver one or more Facilities
21 from time to time and to cause amounts to be borrowed thereunder at such times and in such
22 amounts as may be necessary or prudent to provide for the due and proper payment of the Public
23 Expenditures and the maintenance of prudent financial reserves. The County may enter into
24 Facilities with one or more banks, investment banking firms or other financial institutions
25 (collectively, the "Lenders"). The County Executive may select one or more Lenders with which
26 to enter into Facilities. Such selection may be by competitive sale, negotiation after request for
27 proposals, or by sole source procurement with a Lender with which the County has an existing
28 banking relationship, as the County Executive may determine. Notwithstanding any provision
29 hereof to the contrary, any Facility may take the form of a loan agreement, a line of credit, a letter
30 of credit, a bond or series of bonds, or other debt instrument. Interest with respect to any Facility
31 may be payable on a fixed rate or variable rate basis, as further set forth in such Facility and as
32 approved by the County Executive. The principal amount due with respect to any Facility shall be
33 payable at such times and places as shall be specified by the County Executive. The Facilities may
34 have such other terms and conditions as the County Executive may approve. The County
35 Executive's execution and delivery of a Facility shall constitute conclusive evidence of the County
36 Executive's approval of the terms thereof for all purposes of this Act.

37 Section 6. The Facilities and their issuance and sale shall be exempt from the provisions
38 of Sections 19-205 and 19-206 of the Local Government Article of the Annotated Code of
39 Maryland, as amended.

40 Section 7. The County may borrow pursuant to the terms of any Facility with the
41 expectation that interest payable with respect thereto may or may not be excludable from the gross
42 income of the recipients thereof. In the event that any Facility is entered into with the expectation

1 that interest payable with respect thereto is to be excludable from the gross income of the recipients
2 thereof, the County Executive and the Director of Finance are each authorized to execute and
3 deliver such certificates, forms and findings as may be necessary or appropriate to comply with
4 the applicable terms and provisions of the Internal Revenue Code and the income tax regulations
5 promulgated pursuant thereto.

6 Section 8. The County designates the County Executive as the person to declare the official
7 intent of the County in those instances in which expenditures are to be made for Public
8 Expenditures with the expectation that such expenditures are to be reimbursed from the proceeds
9 of tax-exempt obligations. In exercising the authority granted by the foregoing designation, the
10 County Executive is further authorized to take any and all such action as may be required or
11 appropriate to assure compliance by the County with applicable provisions of the Internal Revenue
12 Code and Section 1.150-2 of the Income Tax Regulations. The designation made herein may be
13 delegated in writing by the County Executive to one or more designees.

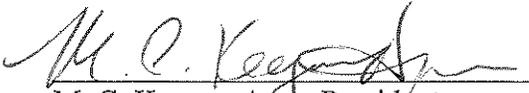
14 Section 9. The authority to borrow money and to issue Facilities conferred on the County
15 by this Act shall be deemed to provide additional, alternative and supplemental authority for
16 borrowing money and shall be regarded as supplemental and additional to powers conferred upon
17 the County by other laws and shall not be regarded as in derogation of any power now existing;
18 and all previously enacted laws authorizing the County to borrow money are hereby continued to
19 the extent that the power contained in them is continuing or has not been exercised, unless any law
20 is expressly repealed by this Act, and the validity of any Facilities issued under previously enacted
21 laws is hereby ratified, confirmed and approved. This Act, being necessary for the welfare of the
22 inhabitants of Frederick County, shall be liberally construed to effect its purposes.

23 Section 10. The provisions of this Act are severable, and if any provision, sentence, clause,
24 section or part hereof is held to be illegal, invalid or unconstitutional or inapplicable to any person
25 or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect
26 or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Act or their
27 application to other persons or circumstances. It is hereby declared to be the legislative intent that
28 this Act would have been passed if such illegal, invalid or unconstitutional provision, sentence,
29 clause, section or part had not been included herein, and if the person or circumstances to which
30 this Act or any part hereof are inapplicable had been specifically exempted therefrom.

31 Section 11. The authority to execute and deliver any Facilities pursuant to this Act shall
32 expire thirty (30) calendar days after the revocation by the Governor of Maryland of the March 5,
33 2020 declaration of emergency. All other provisions of this Act shall remain in full force and
34 effect for so long as any Facilities remain in effect.

35 Section 12. It is hereby found and determined that, due to the facts and circumstances
36 relating to COVID-19 and the consequent impact on County operations and finances, the authority
37 created by this Act is necessary for the immediate protection of the public health, safety, and
38 welfare. This Act shall therefore be treated as expedited legislation in accordance with the
39 provisions of Section 307 of the Frederick County Charter.

1 Section 13. And be it further enacted that this Act shall take effect on June 9, 2020
2 when it becomes law.
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7 M. C. Keegan-Ayer, President BS
8 County Council of Frederick County,
9 Maryland
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