



Bill No. 22-19

Concerning: General Obligation Bond Authorization

Introduced: September 6, 2022

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

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

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

Expires: December 5, 2022

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.

Date Council Approved: \_\_\_\_\_ Date Transmitted to Executive: \_\_\_\_\_

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

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

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

Date returned to Council by County Executive with no action: \_\_\_\_\_

By amending:

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

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

**Boldface**

Underlining

[Single boldface brackets]

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*Heading or defined term.*

*Added to existing law.*

*Deleted from existing law.*

*Existing law unaffected by bill.*

2        The County Council of Frederick County, Maryland, finds it necessary and  
3 appropriate to authorize the County, from time to time, to borrow not more than One  
4 Hundred Million Dollars (\$100,000,000) for the purpose of financing the costs of certain  
5 public facilities in Frederick County described herein, and to effect such borrowing by the  
6 issuance and sale of its general obligation bonds in one or more series, in accordance with  
7 the provisions of Section 10-203 of the Local Government Article of the Annotated Code,  
8 as amended.

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

11        Section 1. Pursuant to Section 10-203 of the Local Government Article of the  
12 Annotated Code of Maryland, as amended (the “Bond Act”), Frederick County, Maryland  
13 (the “County”) is hereby authorized and empowered to borrow money and incur  
14 indebtedness for the public purposes described in Section 2 hereof, in an amount not to  
15 exceed, in the aggregate, One Hundred Million Dollars (\$100,000,000) and to evidence  
16 such borrowing by issuing, selling and delivering its bonds, at any time or from time to time  
17 and in one or more series, in an aggregate principal amount not to exceed in the aggregate,  
18 One Hundred Million Dollars (\$100,000,000) (the “Bonds”), subject to the provisions and  
19 conditions of this Act.

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

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

38        Section 3. For the purpose of paying the interest on and redeeming and paying the  
39 Bonds as they mature, in each and every fiscal year that any of the Bonds are outstanding,

1 the County shall levy or cause to be levied ad valorem taxes upon all the legally assessable  
2 property within the corporate limits of the County, in rate and amount sufficient to provide  
3 for the payment, when due, of the principal of and interest on all of the Bonds maturing  
4 in each such fiscal year and, if the proceeds from the taxes so levied in any fiscal year  
5 prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal  
6 year to make up any deficiency. In case the Bonds shall be issued in any fiscal year after the  
7 making of the regular levy for that fiscal year, any and all interest becoming due before the next  
8 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  
10 may apply to the payment of the principal of and interest on any Bonds issued hereunder any  
11 funds 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  
13 be levied under this Act may be reduced or need not be levied to the extent that any such funds  
14 are 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 maturing principal of and interest on the Bonds as  
17 and when such principal and interest respectively mature and to the levy and collection of the  
18 taxes prescribed in this Act as and when such taxes may become necessary in order to provide  
19 sufficient funds to meet the debt service requirements of the Bonds.

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

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

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

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

19           Section 9. The County may issue all or any part of the Bonds and the Notes with  
20 the expectation that interest payable with respect thereto may or may not be excludable  
21 from the gross income of the recipients thereof. In the event that any Bonds or Notes are  
22 issued with the expectation that interest payable with respect thereto is to be excludable  
23 from the gross income of the recipients thereof, the County Executive and the Director of  
24 Finance are each authorized to execute and deliver such certificates, forms and findings as  
25 may be necessary or appropriate to comply with the applicable terms of the Internal  
26 Revenue Code and the income tax regulations promulgated pursuant thereto.

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

36           Section 11. The authority to borrow money and to issue bonds conferred on the  
37 County by this Act shall be deemed to provide additional, alternative and supplemental  
38 authority for borrowing money and shall be regarded as supplemental and additional to  
39 powers conferred upon the County by other laws and shall not be regarded as in derogation  
40 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 \_\_\_\_\_, 2022 when it becomes law.

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