

**MEMORANDUM**

TO: County Council

FROM: *MR* Michael Faden, Senior Legislative Attorney

SUBJECT: **Public Hearing:** Emergency Bill 14-01, *Recordation Tax - Rates and Exemption*

Councilmember Subin introduced Emergency Bill 14-01 on April 3. This bill would increase the rate of the County recordation tax by 50% and exempt from that tax the first \$40,000 in value of each owner-occupied residential property. It also would commit the Council to allocating the revenue raised by the higher tax rate in equal parts to the cost of constructing new schools and additions to existing schools, the cost of traffic congestion relief, and the Housing Initiative fund to support the Executive's affordable housing proposal.

A Management and Fiscal Policy Committee worksession on this bill is scheduled for April 30 at 2 p.m.

This packet contains:	<u>Circle #</u>
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Emergency Bill No. 14-01  
Concerning: Recordation Tax - Rates  
and Exemption  
Revised: 3-29-01 Draft No. 2  
Introduced: April 3, 2001  
Expires: October 3, 2002  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: July 1, 2001  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Subin

### AN EMERGENCY ACT to:

- (1) increase the rate of the recordation tax;
- (2) exempt a certain amount of the consideration for an owner-occupied residential property from the recordation tax;
- (3) confirm certain actions previously taken regarding the recordation tax;
- (4) declare the intent of the Council regarding the use of certain revenue from the recordation tax; and
- (5) generally amend County law affecting the recordation tax.

By adding

Montgomery County Code  
Chapter 52, Taxation  
Section 52-16B

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

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec. 1. Section 52-16B is added as follows:**

2   **52-16B.    [Reserved] Recordation Tax**

3           **(a)    Rate. The rate of the recordation tax, levied under state law, is \$3.30**  
4                           for each \$500 or fraction of \$500 of consideration payable or of the  
5                           principal amount of the debt secured for an instrument of writing,  
6                           including the amount of any mortgage or deed of trust assumed by a  
7                           grantee.

8           **(b)    Exemption. The first \$40,000 of the consideration payable on the**  
9                           conveyance of any owner-occupied residential property is exempt  
10                          from the recordation tax if the buyer of that property intends to use the  
11                          property as the buyer's principal residence by actually occupying the  
12                          residence for at least 7 months of the 12-month period immediately  
13                          after the property is conveyed.

14           **Sec. 2.       Emergency Effective Date.**

15           The Council declares that an emergency exists and that this legislation is  
16 necessary for the immediate protection of the public health and safety. This Act  
17 takes effect on July 1, 2001, and applies to any instrument recorded with the Clerk  
18 of the Circuit Court on or after that date.

19           **Sec. 3.       Effect of Previous Actions.**

20           This Act supersedes Resolution No. 7-182, effective July 1, 2001. Any  
21 action taken under that resolution before that date, including the levy and  
22 collection of the recordation tax, is ratified and confirmed as if that action had been  
23 taken under authority of a law enacted by the County Council.

24           **Sec. 4.       Allocation of Revenue.**

25           The Council intends to allocate the revenue attributable to the increase in the  
26 rate of the recordation tax enacted in this Act in the following manner:

- 27 (a) 33 1/3% to the cost of constructing new schools and
- 28 additions to existing schools;
- 29 (b) 33 1/3% to the cost of traffic congestion relief; and
- 30 (c) 33 1/3% to the Housing Initiative fund established under
- 31 County Code §25B-9.

32 *Approved:*

33

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Blair G. Ewing, President, County Council	Date
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34 *Approved:*

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Douglas M. Duncan, County Executive	Date
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36 *This is a correct copy of Council action.*

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Mary A. Edgar, CMC, Clerk of the Council	Date
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# LEGISLATIVE REQUEST REPORT

Emergency Bill 14-01

## *Recordation Tax - Rates and Exemption*

**DESCRIPTION:** Raises the rate of the County recordation tax from \$2.20/\$500 to \$3.30/\$500. Exempts the first \$40,000 of consideration for an owner-occupied residence from the tax. Confirms a previous resolution that set the recordation tax rate. Declares the intent of the Council regarding the use of the increased revenue from the recordation tax.

**PROBLEM:** Need for revenue to fund school construction, transportation capacity, and affordable housing. Need to make the recordation tax more progressive so that it does not discourage affordable home-ownership.

**GOALS AND OBJECTIVES:** To raise added revenue for capital improvement needs through the recordation tax in a progressive manner.

**COORDINATION:** Departments of Finance, Housing and Community Affairs, Housing Opportunities Commission

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Michael Faden, Senior Legislative Attorney, 240-777-7905

**APPLICATION WITHIN MUNICIPALITIES:** Applies only to County recordation tax, which applies Countywide.

**PENALTIES:** Not applicable

Post-it® Fax Note	7671	Date	4/20	# of pages	6
To	Mark Lomey	From	Mike Faden		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #		Fax #			

§ 12-103

TAX-PROPERTY

(Amendment effective July 1, 2001.)

§ 12-103. Rate of tax.

(a) Application of recordation tax rates. — The recordation tax rates under this section are applied to each \$500 or fraction of \$500 of consideration payable or of the principal amount of the debt secured for an instrument of writing. The consideration includes the amount of any mortgage or deed of trust assumed by the grantee.

(b) Power to set; exemption from tax on conveyance of principal residences; exemption from recordation tax for instrument of writing. — (1) The Mayor and City Council of Baltimore City or the governing body of a county may set, by law, the recordation tax rate in the county.

(2) The Mayor and City Council of Baltimore City or the governing body of a county may provide for an exemption from the tax of a specified amount of the consideration payable on the conveyance of owner-occupied residential property if the buyer intends to use the property as the buyer's principal residence by actually occupying the residence for at least 7 months of a 12-month period.

(3) The governing body of a county or Baltimore City may provide for an exemption from the recordation tax for an instrument of writing for residentially improved owner-occupied real property if the instrument of writing is accompanied by a statement under oath signed by each grantee that:

(i) 1. the grantee is an individual who has never owned in the State residential real property that has been the individual's principal residence; and  
2. the residence will be occupied by the grantee as the grantee's principal residence; or

(ii) 1. the grantee is a co-maker or guarantor of a purchase money mortgage or purchase money deed of trust as defined in § 12-108 (i) of this title for the property; and

2. the grantee will not occupy the residence as the co-maker's or guarantor's principal residence.

(c) Public utility bonds' security tax rate. — The recordation tax rate is 55 cents for an instrument of writing for property that:

(1) is located in 2 or more counties; and

(2) is security for a corporate bond of a public service company as defined in § 1-101 of the Public Utility Companies Article.

(d) Rate on articles of transfer, merger, or consolidation. — For articles of transfer, articles of merger, or articles of consolidation filed with the Department under § 3-107 of the Corporations and Associations Article, or other document filed with the Department which evidences a merger or consolidation of foreign corporations, foreign limited liability companies, foreign partnerships, or foreign limited partnerships, the recordation tax rate is \$1.65. The Department shall collect the recordation tax when the articles of transfer, articles of merger, articles of consolidation, or other document which evidences a merger or consolidation of foreign corporations, foreign limited liability companies, foreign partnerships, or foreign limited partnerships are filed.

(e) Repealed  
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§ 12-1

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## SECTION 7 – RECORDATION AND TRANSFER TAXES

A "recordation tax" is imposed upon defined instruments of writing conveying title to real or personal property or creating liens or encumbrances upon real or personal property offered for record. This is recorded with the Clerks of Circuit Courts or, in the case of Baltimore City, the Clerk of the Superior Court.

The recordation tax rate is imposed on each \$500 of the value of the transaction being recorded. Somerset County imposes the lowest recordation tax rate of \$1.65. The highest rate imposed is \$5.00 in Calvert, Charles and Frederick Counties. Five counties have increased their recordation tax rates since 1993.

**Table 7.1** lists the recordation tax rates each subdivision levied for the period FY 1997 through FY 2001. The revenues generated in each county by the recordation tax rates are shown for each year, including an estimate for FY > 2001. The increases (or decreases) in recordation tax revenue between the last two fiscal years are also highlighted.

**Table 7.2** shows the subdivisions that impose local transfer taxes, the various rates, and the amounts of revenue generated in Fiscal Years 1997 through 2001 by subdivision.

Seventeen counties, including Baltimore City, exercise their authority to levy a "transfer tax" on real property transactions. This is a local levy in addition to the State's 0.5% transfer tax rate. The local rates are imposed as a percentage of each property transaction's total value.

**TABLE 7.1  
RECORDATION TAX RATES AND YIELDS  
FISCAL YEARS 1997 THROUGH 2001**

*Recordation Tax rates shown are per \$500 of consideration*

SUBDIVISION	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	CHG IN YIELD 00-01	
						AMT	PCT
ALLEGANY	\$2.20 525,000	\$2.20 645,599	\$2.20 879,011	\$2.20 660,396	\$2.20 600,000	(60,396)	-9.15%
ANNE ARUNDEL	\$3.50 15,425,840	\$3.50 20,862,590	\$3.50 24,953,823	\$3.50 25,100,396	\$3.50 22,609,000	(2,491,396)	-9.93%
BALTIMORE CITY	\$2.75 8,365,746	\$2.75 9,429,066	\$2.75 10,286,134	\$2.75 10,049,724	\$2.75 9,120,000	(929,724)	-9.25%
BALTIMORE COUNTY	\$2.50 12,918,708	\$2.50 18,079,555	\$2.50 18,867,627	\$2.50 19,457,956	\$2.50 16,875,000	(2,582,956)	-13.27%
CALVERT <sup>1</sup>	\$3.30 2,244,000	\$3.30 3,101,385	\$3.30 3,459,272	\$3.30/\$5.00 * 4,470,151	\$5.00 4,545,455	75,304	1.68%
CAROLINE	\$3.30 450,000	\$3.30 659,097	\$3.30 744,495	\$3.30 777,028	\$3.30 600,000	(177,028)	-22.78%
CARROLL	\$3.50 4,422,550	\$3.50 5,309,546	\$3.50 5,997,750	\$3.50 6,345,928	\$3.50 6,473,000	127,072	2.00%
CECIL	\$2.20 1,300,000	\$2.20 1,855,369	\$2.20 2,092,542	\$3.30 2,892,522	\$3.30 2,775,000	(117,522)	-4.06%
CHARLES	\$5.00 5,557,988	\$5.00 6,525,679	\$5.00 7,565,528	\$5.00 7,579,697	\$5.00 7,904,000	324,303	4.28%
DORCHESTER	\$3.30 674,364	\$3.30 707,511	\$3.30 924,187	\$3.30 927,967	\$3.30 825,000	(102,967)	-11.10%
FREDERICK	\$3.50 6,200,000	\$3.50 8,340,761	\$3.50 10,564,450	\$3.50 10,216,285	\$5.00 10,600,000	383,715	3.76%
GARRETT	\$3.50 763,000	\$3.50 1,015,553	\$3.50 1,388,322	\$3.50 1,415,628	\$3.50 1,350,000	(65,628)	-4.64%
HARFORD	\$3.30 5,564,648	\$3.30 6,909,330	\$3.30 7,814,833	\$3.30 8,261,386	\$3.30 5,823,209	(2,438,177)	-29.51%
HOWARD	\$2.50 6,800,000	\$2.50 9,333,685	\$2.50 11,072,465	\$2.50 10,902,292	\$2.50 12,000,000	1,097,708	10.07%
KENT	\$3.30 670,000	\$3.30 732,159	\$3.30 821,275	\$3.30 702,195	\$3.30 844,500	142,305	20.27%
MONTGOMERY	\$2.20 24,000,000	\$2.20 30,040,959	\$2.20 34,223,000	\$2.20 35,021,000	\$2.20 34,190,000	(831,000)	-2.37%
PRINCE GEORGE'S	\$2.20 12,840,000	\$2.20 15,896,912	\$2.20 19,897,414	\$2.20 16,518,266	\$2.20 16,275,600	(242,666)	-1.47%
QUEEN ANNE'S	\$3.30 2,663,536	\$3.30 2,071,436	\$3.30 2,273,270	\$3.30 2,549,911	\$3.30 2,250,000	(299,911)	-11.76%
ST. MARY'S	\$3.30 2,663,536	\$3.30 3,196,011	\$3.30 3,364,746	\$3.30 2,972,632	\$3.30 3,019,750	47,118	1.59%
SOMERSET	\$1.65 110,000	\$3.30 168,771	\$1.65 181,327	\$1.65 200,559	\$1.65 170,000	(30,559)	-15.24%
TALBOT	\$3.30 1,818,179	\$3.30 2,069,280	\$3.30 2,611,241	\$3.30 2,885,564	\$3.30 2,030,000	(855,564)	-29.65%
WASHINGTON	\$3.80 2,645,000	\$3.80 4,016,875	\$3.80 3,907,106	\$3.80 4,692,879	\$3.80 4,100,000	(592,879)	-12.63%
WICOMICO	\$2.30 1,100,000	\$2.30 1,250,000	\$2.30 1,824,000	\$2.30 1,761,527	\$2.30 1,620,000	(141,527)	-8.03%
WORCESTER	\$2.20 1,700,000	\$3.30 3,451,821	\$3.30 4,425,873	\$3.30 4,873,869	\$3.30 4,300,000	(573,869)	-11.77%
<b>TOTAL YIELD</b>	<b>121,422,095</b>	<b>155,668,950</b>	<b>180,139,691</b>	<b>181,235,758</b>	<b>170,899,514</b>	<b>(10,336,244)</b>	<b>-5.70%</b>

<sup>1</sup> Effective November 1, 1999, rate was increased to \$5.00 per \$500.00

Source: Maryland Association of Counties, Budget and Tax Rate Survey, November 2000

Maryland Association of Counties - Budget, Tax Rates, and Selected Statistics - FY 2001

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**TABLE 7.2**  
**TRANSFER TAX RATES AND YIELDS<sup>1</sup>**  
**FISCAL YEARS 1997 THROUGH 2001**

SUBDIVISION	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	CHG IN YIELD, 00-01	
						AMOUNT	PERCENT
ALLEGANY	0.20%	0.20%	0.20%	0.20%	0.20%		
	95,000	97,928	175,995	123,061	105,000	(18,061)	-14.68%
ANNE ARUNDEL	1.00%	1.00%	1.00%	1.00%	1.00%		
	16,684,200	20,747,221	24,870,792	27,059,167	24,419,000	(2,640,167)	-9.76%
BALTIMORE CITY	1.50%	1.50%	1.50%	1.50%	1.50%		
	15,237,357	16,469,667	18,228,599	19,799,824	17,290,000	(2,509,824)	-12.68%
BALTIMORE COUNTY <sup>2</sup>	1.50%	1.50%	1.50%	1.50%	1.50%		
	24,622,500	29,955,438	33,494,695	33,873,719	33,250,000	(623,719)	-1.84%
CALVERT	-	-	-	-	-		
CAROLINE <sup>3</sup>	0.50%	0.50%	0.50%	50.00%	50.00%		
	120,000	185,766	203,145	268,200	250,000	(18,200)	-6.79%
CARROLL	-	-	-	-	-		
CECIL <sup>4</sup>	-	-	-	-	-		
	-	31,343	35,407	31,767	30,871	(896)	-2.82%
CHARLES	-	-	-	-	-		
DORCHESTER	1.00%	1.00%	1.00%	1.00%	1.00%		
	502,957	513,279	609,541	720,614	600,000	(120,614)	-16.74%
FREDERICK	-	-	-	-	-		
GARRETT	1.00%	1.00%	1.00%	1.00%	1.00%		
	334,000	503,671	622,251	890,252	700,000	(190,252)	-21.37%
HARFORD	1.00%	1.00%	1.00%	1.00%	1.00%		
	4,513,342	6,061,775	6,852,721	7,417,345	6,747,198	(670,147)	-9.03%
HOWARD <sup>5</sup>	1.00%	1.00%	1.00%	1.00%	1.00%		
	9,600,000	12,000,000	16,550,112	17,055,548	16,000,000	(1,055,548)	-6.19%
KENT	0.50%	0.50%	0.50%	0.50%	0.50%		
	307,000	361,176	384,510	355,938	381,000	25,062	7.04%
MONTGOMERY	1-6%	0.25% to 6%	0.25% to 6%	0.25% to 6%	0.25% to 6%		
	39,700,000	52,928,804	58,787,000	64,751,000	61,060,000	(3,691,000)	-5.70%
PRINCE GEORGE'S	1.40%	1.40%	1.40%	1.40%	1.40%		
	35,160,000	41,379,795	46,562,398	47,772,309	43,529,300	(4,243,009)	-8.88%
QUEEN ANNE'S	0.50%	0.50%	0.50%	0.50%	0.50%		
	675,218	844,567	946,343	1,160,617	950,000	(210,617)	-18.15%
ST. MARY'S	1.00%	1.00%	1.00%	1.00%	1.00%		
	2,492,059	2,645,014	2,819,586	2,656,144	2,778,600	122,456	4.61%
SOMERSET	-	-	-	-	-		
TALBOT <sup>6</sup>	1.00%	1.00%	1.00%	1.00%	1.00%		
	1,753,646	1,800,853	2,402,183	2,974,119	2,035,000	(939,119)	-31.58%
WASHINGTON	-	-	-	-	-		
WICOMICO	-	-	-	-	-		
WORCESTER	0.50%	0.50%	0.50%	0.50%	0.50%		
	1,300,000	1,756,416	2,137,348	2,818,455	2,300,000	(518,455)	-18.40%
<b>TOTAL YIELD</b>	<b>150,485,220</b>	<b>185,420,590</b>	<b>212,624,488</b>	<b>226,771,968</b>	<b>209,366,498</b>	<b>(17,405,470)</b>	<b>-7.68%</b>

<sup>1</sup> Local rates are in addition to the State Transfer Tax of 0.5%.

<sup>2</sup> First \$22,000 of consideration is exempt from taxation.

<sup>3</sup> Local Transfer Tax is source of revenue for Capital Bond Fund, not for General Fund.

<sup>4</sup> Cecil County levies \$10 per deed charge at time of transfer.

<sup>5</sup> In Howard County all transfer tax revenues are dedicated funds.

<sup>6</sup> First \$50,000 of consideration is exempt from taxation. Exemption is for owner occupied residential property.

Source: Maryland Association of Counties, Budget and Tax Rate Survey, November 2000

Maryland Association of Counties - Budget, Tax Rates, and Selected Statistics - FY 2001

*Council staff fact sheet*

**Recordation Tax -- rate and exemption**

- The current recordation tax rate is \$4.40/\$1000, which is the 2<sup>nd</sup> lowest rate among the 24 Maryland counties (tied with Prince George's and Allegany Counties, higher only than Somerset County's \$3.10/\$1000 rate).
- The proposed rate of \$6.60/\$1000 (with the \$40,000 exemption) would give Montgomery County the 8<sup>th</sup> lowest rate in Maryland. Nine other counties currently have a rate of \$6.60/\$1000, but they do not exempt any part of the price of owner-occupied housing.
- Under the proposed rate and exemption, a person paying less than \$120,000 for a house would pay *less* recordation tax than they now pay.
- At the current rate the County recordation tax is expected to raise about \$34.7 million in FY 02. The proposed rate and exemption would increase the expected revenue in FY 02 by about \$12.7 million, up to about \$47.4 million.

**Transfer + recordation tax payments for selected-price houses**

House Price	Montgomery County (now)	Montgomery County (proposed)	Prince George's County	Frederick County	Howard County	Anne Arundel County
\$100,000	\$1,440	\$1,396	\$1,840	\$1,000	\$1,500	\$1,700
\$150,000	2,160	2,226	2,760	1,500	2,250	2,550
\$200,000	2,880	3,056	3,680	2,000	3,000	3,400
\$250,000	3,600	3,886	4,600	2,500	3,750	4,250
\$300,000	4,320	4,716	5,520	3,000	4,500	5,100
\$350,000	5,040	5,546	6,440	3,500	5,250	5,950