

**MEMORANDUM**

TO: County Council

FROM: *MF* Michael Faden, Senior Legislative Attorney

SUBJECT: **Introduction:** Expedited Bill 37-14, Real Property Transfer Tax – Exemption – Enterprise Zones

Expedited Bill 37-14, Real Property Transfer Tax – Exemption – Enterprise Zones, sponsored by Councilmembers Navarro and Floreen, is scheduled to be introduced on July 15, 2014. A public hearing is tentatively scheduled for September 9 at 1:30 p.m.

Bill 37-14 would exempt transfers of rezoned property located in an enterprise zone from the 6% rezoning transfer tax. It would also repeal archaic and obsolete language and references, and make conforming and stylistic changes.

This packet contains:	<u>Circle #</u>
Expedited Bill 37-14	1
Legislative Request Report	6

Expedited Bill No. 37-14  
Concerning: Real Property Transfer Tax  
- Exemption - Enterprise Zones  
Revised: 6/30/14 Draft No. 3  
Introduced: July 15, 2014  
Expires: January 15, 2016  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmembers Navarro and Floreen

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**AN EXPEDITED ACT** to:

- (1) exempt from a certain provision of the real property transfer tax certain transfers of rezoned property located in an enterprise zone;
- (2) repeal archaic and obsolete language and references, and make conforming and stylistic changes; and
- (3) generally amend County law regarding the real property transfer tax.

By amending

Montgomery County Code  
Chapter 52, Taxation  
Article II, Real Property Transfer Tax  
Section 52-21

<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:*



28 mean] as used in this subsection means a classification, reclassification,  
29 or change in zone which permits a greater number of dwelling units per  
30 acre in any residential zone, or which permits a greater number of  
31 permitted uses regardless of area in a commercial zone or industrial  
32 zone, or is from any residential zone to any commercial or industrial  
33 zone, or is from any industrial zone to any commercial zone.

34 "Rezoned to a more intensive use" [shall] does not include:

- 35 (1) A zoning from a residential zone to a Planned Unit Development  
36 Zone [under division 59-C-7 granted after January 1, 1980], if the  
37 approved development plan, including any amendments to the  
38 plan, does not increase the total number of permitted dwelling  
39 units and does not permit commercial or industrial uses,  
40 [provided however, that] but the transfer [shall] must be subject  
41 to [additional] any tax otherwise due under this subsection if at  
42 any time an amendment to the development plan increases the  
43 total number of permitted dwelling units or permits commercial  
44 or industrial uses;
- 45 (2) A zoning from a residential zone to a commercial zone within  
46 one [(1)] year after the property was down zoned from a  
47 commercial zone of equal or greater intensity to a residential  
48 zone by sectional map amendment; [or]
- 49 (3) A rezoning from an industrial zone to a commercial zone which:  
50 (i) Is necessitated by a previously adopted amendment to [the  
51 zoning ordinance text,] Chapter 59 that was not [upon  
52 application or at the instance of] requested by the  
53 transferor, transferee, owner, or former owner of the real  
54 property, or by any person who has or has previously had

55 an interest of any kind in the property, including a  
56 contractual interest; and

57 (ii) Allows establishment or continuance of a use or uses  
58 which were permitted uses on the property under the  
59 industrial zone immediately [prior to] before the text  
60 amendment, to which use or uses the property was  
61 restricted by bona fide covenants recorded among the land  
62 records [prior to] before July 1, 1971, and which covenants  
63 are in effect at the time of a transfer; or

64 (4) a rezoning of any property that is located in an enterprise zone  
65 when the property is transferred.

66 [The tax levied and imposed in this subsection shall not apply to  
67 transfers which are made pursuant to a bona fide written contract or  
68 agreement of sale entered into prior to July 1, 1971; provided, that the  
69 director of finance may require satisfactory proof that the contract or  
70 agreement was entered into prior to such date. There shall be deducted  
71 from the consideration as defined in section 59-19 the] The taxpayer  
72 may deduct from the consideration on which the tax is based any cost  
73 [or expense] actually incurred by the transferor for public  
74 improvements, such as sewer, water, roads, sidewalks, storm drainage  
75 structures, and permanent soil erosion and sediment control measures,  
76 [subject to the submission to the director of finance of] if the taxpayer  
77 submits satisfactory proof of [such] costs [or expenses] documented by  
78 certificates from public agencies where applicable[; provided, that], but  
79 the rate of [such] the tax on a single transfer [shall] must not exceed [six  
80 (6)] 6 percent of the bona fide market value consideration for the  
81 transfer. [Where] If a transfer is subject both to the tax imposed by this

82 subsection and the tax imposed by subsection (d), the tax imposed by  
 83 this subsection [shall] must be the only tax imposed on the transfer.  
 84 Any tax collected under this subsection [shall] must be collected only  
 85 once after each rezoning to a more intensive use, and [all transfers] any  
 86 transfer that does not [subsequent to] follow a rezoning to a more  
 87 intensive use [shall] must be [taxable] taxed at the rates applicable under  
 88 other subsections of this section. The [county executive] Executive may  
 89 [from time to time] issue [written] regulations under method (3) [of  
 90 section 2A-15 of this Code, pertaining to] regarding the collection of the  
 91 tax levied in this subsection.

92 \* \* \*

93 **Sec. 2. Expedited Effective Date.** The Council declares that this  
 94 legislation is necessary for the immediate protection of the public interest. This Act  
 95 takes effect on the date when it becomes law.

96 *Approved:*

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 \_\_\_\_\_  
 Craig L. Rice, President, County Council Date

99 *Approved:*

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 101  
 \_\_\_\_\_  
 Isiah Leggett, County Executive Date

102 *This is a correct copy of Council action.*

103  
 104  
 \_\_\_\_\_  
 Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

Expedite Bill 37-14

*Real Property Transfer Tax – Exemption – Enterprise Zones*

**DESCRIPTION:** Exempts transfers of rezoned property located in an enterprise zone from the 6% rezoning transfer tax. Repeals archaic and obsolete language and references, and makes conforming and stylistic changes.

**PROBLEM:** The current rezoning transfer tax acts as a disincentive to needed redevelopment in enterprise zones.

**GOALS AND OBJECTIVES:** To encourage redevelopment in enterprise zones

**COORDINATION:** Department of Finance

**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:** Transfer tax applies county-wide.

**PENALTIES:** Not applicable