

MEMORANDUM

TO: County Council

FROM: Jeffry L. Zyontz, Senior Legislative Analyst

SUBJECT: **Introduction:** Bill 52-15, Administrative Procedures – Summary Decision

Bill 52-15, Administrative Procedures – Summary Decision, is scheduled to be introduced on December 8, 2015. The Lead Sponsor is Council President Floreen at the request of the Hearing Examiner. A public hearing is tentatively scheduled for January 12, 2016 at 1:30 p.m.

Bill 52-15 would revise the Administrative Procedures Act to allow a summary decision without an evidentiary hearing when there are no facts at issue.

This packet contains:	<u>Circle #</u>
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Bill No. 52-15
Concerning: Administrative Procedures –
Summary Decision
Revised: 12-2-15 Draft No. 3
Introduced: December 8, 2015
Expires: June 8, 2017
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the request of the Hearing Examiner

AN ACT to:

- (1) revise the Administrative Procedures Act to allow a summary decision without an evidentiary hearing ; and
- (2) generally amend the law governing administrative procedures.

By amending

Montgomery County Code
Chapter 2A, Administration
Section 2A-7

Boldface	<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 2A-7 is amended as follows:**

2 **2A-7. Pre-hearing procedures.**

3 * * *

4 (d) Summary Decision. Any party may file a motion for summary decision
5 at least 20 days before the date of a hearing. The hearing authority may
6 grant summary decision if the hearing authority finds that there is no
7 genuine issue of material fact to be decided at the hearing. The hearing
8 authority must give all other parties at least 10 days to respond to the
9 motion for summary decision before deciding the motion. The hearing
10 authority may permit oral argument on the motion.

11 (e) Restrictions on data. Unless a matter has been formally certified for
12 hearing by the hearing authority, government documents or records shall
13 not be subject to these provisions. In the event a matter is certified for
14 hearing by the hearing authority, any documents or records not to be used
15 at the hearing shall not be subject to the provisions of this chapter.
16 Further, any matter or materials which are designated by law as
17 confidential shall not be released without a waiver of the parties to the
18 confidentiality.

19
20 Approved:

21
_____ Nancy Floreen, President, County Council Date

22 Approved:

23
_____ Isiah Leggett, County Executive Date

LEGISLATIVE REQUEST REPORT

Bill 52-15

Administrative Procedures – Summary Decision

DESCRIPTION:	The will would amend the Administrative Procedures Act to all a hearing authority to come to conclusion without an evidentiary hearing when there are no facts at issue.
PROBLEM:	Maryland Courts only allow a summary decision to be made when that procedure is allow by law. Currently the authority for summary decisions is not in County Code having for an inefficient hearing process.
GOALS AND OBJECTIVES:	The Bill will make the hearing process more efficient.
COORDINATION:	Merit System Protection Board, Landlord Tenant Affairs Commission, the Commission on Common Ownership, the Human Rights Commission and the Office of Zoning and Administrative Hearings
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Consultations with Boards, Commissions, and offices
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	NA