

# HOUSE BILL No. 1035

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 32-31.5; IC 36-1-24.

**Synopsis:** Preemption of local bans on short term rentals. Provides that a short term rental of an owner's primary residence is a permitted residential use under any applicable ordinance and may not be disallowed. Exempts ordinances adopted before January 1, 2018, that are contrary to the provisions of the bill. Excludes property owners associations from the provisions of the bill. Allows a local unit of government (local unit) to regulate short term rental of residential property only for specified purposes. Allows a local unit to require an owner to obtain a permit for a short term rental. Allows a local unit to charge a permit fee of not more than \$150. Allows a local unit to limit the total number of days that property may be rented as a short term rental to 180 days during a calendar year. Allows a local unit to limit or prohibit short term rentals located within a conservancy district. Requires an owner of a short term rental property, or a short term rental platform on the owner's behalf, to maintain primary liability insurance for third party claims for death, bodily injury, and property damage occurring during a short term rental period.

**Effective:** July 1, 2018.

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## Lehman

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January 3, 2018, read first time and referred to Committee on Government and Regulatory Reform.

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Second Regular Session of the 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

# HOUSE BILL No. 1035

A BILL FOR AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 32-31.5 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2018]:  
4 **ARTICLE 31.5. SHORT TERM RENTALS**  
5 **Chapter 1. General Provisions**  
6 **Sec. 1. This article applies only to residential property that is**  
7 **offered to the public as a short term rental.**  
8 **Chapter 2. Definitions**  
9 **Sec. 1. The definitions in this chapter apply throughout this**  
10 **article.**  
11 **Sec. 2. "Owner" means the person that owns residential**  
12 **property that is offered to the public as a short term rental.**  
13 **Sec. 3. "Rental" means use of a residential property for**  
14 **consideration paid to the owner of the residential property, directly**  
15 **or through a short term rental platform.**  
16 **Sec. 4. "Short term rental" means the rental of the following**  
17 **property for terms of less than thirty (30) days at a time:**



- 1           (1) A single family home.
- 2           (2) A dwelling unit in a single family home.
- 3           (3) A dwelling unit in a two-family or multifamily dwelling.
- 4           (4) A dwelling unit in a condominium, cooperative, or time
- 5           share.

6           **The term includes a detached accessory structure, including a**  
 7           **guest house, or other living quarters that are intended for human**  
 8           **habitation, if the entire property is designated for a single family**  
 9           **residential use. The term does not include property that is used for**  
 10          **any nonresidential use.**

11          **Sec. 5. "Short term rental platform" means an entity that:**  
 12            **(1) provides a platform through which unaffiliated parties**  
 13            **offer to rent a short term rental to an occupant; and**  
 14            **(2) collects consideration for the rental from the occupant.**

15          **Chapter 3. Insurance**

16          **Sec. 1. Not later than July 15, 2018, an owner, or a short term**  
 17          **rental platform on the owner's behalf, shall maintain primary**  
 18          **liability insurance for third party claims for death, bodily injury,**  
 19          **and property damage occurring during a short term rental period**  
 20          **and that meets the following requirements:**

- 21           (1) **The liability insurance is issued:**
  - 22            (A) **by an insurance company that holds a certificate of**
  - 23            **authority to do insurance business in Indiana under**
  - 24            **IC 27-1-3-20; or**
  - 25            (B) **through a surplus lines producer licensed under**
  - 26            **IC 27-1-15.8.**
- 27           (2) **The insurance may be provided by any of the following:**
  - 28            (A) **Liability insurance maintained by the owner.**
  - 29            (B) **Liability insurance maintained by the short term rental**
  - 30            **platform.**
  - 31            (C) **Liability insurance maintained by any combination of**
  - 32            **clauses (A) and (B).**

33          **SECTION 2. IC 36-1-24 IS ADDED TO THE INDIANA CODE AS**  
 34          **A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY**  
 35          **1, 2018]:**

36          **Chapter 24. Short Term Rentals**

37          **Sec. 1. (a) This chapter does not apply to a unit that has adopted**  
 38          **an ordinance before January 1, 2018, that prohibits, regulates, or**  
 39          **restricts short term rentals contrary to this chapter.**

40          **(b) A unit may amend or delete any provision of an ordinance**  
 41          **described in subsection (a) after December 31, 2017, without**  
 42          **complying with or becoming subject to this chapter.**



1 (c) A unit may repeal an ordinance described in subsection (a).  
 2 However, in repealing the ordinance, the unit concurrently  
 3 becomes subject to this chapter.

4 Sec. 2. As used in this chapter, "short term rental" means the  
 5 rental of the following property for terms of less than thirty (30)  
 6 days at a time:

- 7 (1) A single family home.  
 8 (2) A dwelling unit in a single family home.  
 9 (3) A dwelling unit in a two-family or multifamily dwelling.  
 10 (4) A dwelling unit in a condominium, cooperative, or time  
 11 share.

12 The term includes a detached accessory structure, including a  
 13 guest house, or other living quarters that are intended for human  
 14 habitation, if the entire property is designated for a single family  
 15 residential use. The term does not include property that is used for  
 16 any nonresidential use.

17 Sec. 3. As used in this chapter, "short term rental platform"  
 18 means an entity that:

- 19 (1) provides a platform through which unaffiliated parties  
 20 offer to rent a short term rental to an occupant; and  
 21 (2) collects consideration for the rental from the occupant.

22 Sec. 4. As used in this chapter, "owner" means a person that has  
 23 an interest in title or a present possessory interest in property that  
 24 is offered to the public as a short term rental.

25 Sec. 5. As used in this chapter, "owner occupied short term  
 26 rental property" means property that is the owner's primary  
 27 residence and is offered to the public as a short term rental.

28 Sec. 6. As used in this chapter, "permit" means a short term  
 29 rental permit issued by a unit in accordance with section 10 of this  
 30 chapter.

31 Sec. 7. A short term rental of owner occupied short term rental  
 32 property is a permitted residential use under any applicable zoning  
 33 ordinance of a unit and may not be disallowed by any zoning  
 34 ordinance (as defined in IC 36-7-1-22) in a zoning district or  
 35 classification of a unit that permits residential use.

36 Sec. 8. A unit may prohibit, regulate, or limit short term rentals  
 37 only as follows:

- 38 (1) A unit may require an owner to obtain a permit for a short  
 39 term rental in accordance with section 10 of this chapter.  
 40 (2) A unit may limit the total number of days that property  
 41 may be rented to the public as a short term rental within the  
 42 jurisdiction of the unit to one hundred eighty (180) days



1 during a calendar year.

2 (3) A unit may prohibit, regulate, or limit the use of property  
3 as a short term rental only for a primary purpose set forth in  
4 section 9 of this chapter.

5 **Sec. 9. A unit may enact or enforce a law or plan that regulates**  
6 **short term rentals only for the following primary purposes:**

7 (1) Protection of the public's health and safety related to:

8 (A) fire and building safety;

9 (B) sanitation;

10 (C) transportation;

11 (D) traffic control; and

12 (E) pollution control;

13 if enforcement is performed in the same manner as  
14 enforcement that applies to similar properties that are not  
15 short term rentals.

16 (2) Residential use and zoning related to:

17 (A) noise;

18 (B) protection of welfare;

19 (C) property maintenance; and

20 (D) nuisance issues;

21 if enforcement is performed in the same manner as  
22 enforcement that applies to similar properties that are not  
23 short term rentals.

24 (3) To limit or prohibit use of short term rentals for the  
25 following purposes:

26 (A) To house sex offenders.

27 (B) To operate a structured sober living home.

28 (C) To manufacture, exhibit, distribute, or sell illegal  
29 drugs, liquor, pornography, or obscenity.

30 (D) To operate an adult entertainment establishment (as  
31 defined in IC 12-7-2-1.8).

32 (4) To limit or prohibit short term rentals located within the  
33 boundaries of a conservancy district established under  
34 IC 14-33.

35 (5) To provide the unit with an emergency contact for a short  
36 term rental.

37 **Sec. 10. (a) A unit may require an owner to obtain a permit for**  
38 **a short term rental by adopting an ordinance that sets forth only**  
39 **the requirements of this chapter for obtaining a permit. If an**  
40 **ordinance is adopted, an owner must submit a permit application**  
41 **to the unit for each short term rental property owned by the**  
42 **owner. The application may require the owner to provide only the**



1 following information for each short term rental:

2 (1) The owner's name, street address, mailing address,  
3 electronic mail address (if applicable), and telephone number.

4 If the owner is a corporation or partnership, the application  
5 must require the owner's:

6 (A) state of incorporation or organization; and

7 (B) names, residence addresses, and telephone numbers of  
8 principal officers or partners.

9 (2) If a property manager is used, the property manager's  
10 name, street address, mailing address, electronic mail address  
11 (if applicable), and telephone number.

12 (3) A short description of how the short term rental is  
13 marketed or advertised, including:

14 (A) the advertised occupancy limits of the short term  
15 rental; and

16 (B) whether the short term rental is an entire single family  
17 dwelling or a dwelling unit within a single family dwelling.

18 (4) Proof of primary liability insurance coverage as required  
19 by IC 32-31.5-3-1.

20 (b) A permit application must be made by an owner. If the  
21 owner is a corporation, partnership, or other legal entity, the  
22 permit application must be made by an officer or agent of the  
23 owner.

24 (c) Subject to section 15 of this chapter, if an owner submits a  
25 permit application for a short term rental under this section that  
26 meets the requirements set forth in the ordinance adopted by the  
27 unit, the unit shall issue a permit to the owner within thirty (30)  
28 days of receipt of the application.

29 Sec. 11. If any information provided by an owner to a unit under  
30 section 10 of this chapter changes, the owner shall provide updated  
31 information to the unit in writing within thirty (30) business days.

32 Sec. 12. (a) A permit expires one (1) year after the date the  
33 permit is issued.

34 (b) A unit may charge a permit fee that varies based upon  
35 whether the short term rental is an entire single family home, a  
36 dwelling unit in a single family home, a dwelling unit in a  
37 two-family dwelling, or a dwelling unit in a multifamily dwelling.  
38 A permit fee may not exceed one hundred fifty dollars (\$150).

39 Sec. 13. If three (3) citations for ordinance violations are issued  
40 to an owner for a short term rental within a calendar year, the unit  
41 may revoke the permit for that short term rental for a period of  
42 not more than one (1) year. The unit shall provide notice and a



1 hearing for revocation in accordance with the unit's ordinance.

2 Sec. 14. If a unit revokes a permit under this chapter, revocation  
3 of the permit shall be conducted under the notice and hearing  
4 procedures of the unit for revocation of other permits issued by the  
5 unit.

6 Sec. 15. An owner may apply for a permit for a short term  
7 rental for which a previous permit of the owner was revoked by the  
8 unit. However, a new permit may not be issued until any  
9 outstanding fines are paid for ordinance violation citations issued  
10 to the owner with regard to use of the short term rental.

11 Sec. 16. If a short term rental is sold, the permit for the short  
12 term rental may not be transferred to the new owner. The new  
13 owner must submit an application for a new permit.

14 Sec. 17. (a) An owner that rents a short term rental without  
15 obtaining a valid short term rental permit from a unit that adopts  
16 an ordinance under this chapter commits a Class C infraction.

17 (b) Each short term rental transaction that the short term rental  
18 provider completes without a short term rental permit constitutes  
19 a separate violation of this section.

20 Sec. 18. This chapter does not affect, prohibit, preempt, or  
21 render unenforceable any property or use restrictions contained in  
22 properly enacted rules or regulations of a:

- 23 (1) homeowners association;  
24 (2) condominium association;  
25 (3) lake owners association; or  
26 (4) similar property owners association or cooperative.

