



January 16, 2018

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## HOUSE BILL No. 1035

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DIGEST OF HB 1035 (Updated January 16, 2018 1:26 pm - DI 87)

**Citations Affected:** IC 36-1.

**Synopsis:** Short term rentals. Provides the following with regard to short term rentals that are rented through a short term rental platform: (1) 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. (2) Provides that, in the case of residential property that is not the person's primary residence, a local unit of government (local unit): (A) may require a special exception, special use, or zoning variance for the short term rental of the property; and (B) may not interpret and enforce zoning regulations for a special exception, special use, or zoning variance in a manner that is intended or has the effect of prohibiting or unreasonably restricting all short term rentals of the property. (3) Allows a local unit to regulate short term rental of residential property only for specified purposes. (4) Allows a local unit to require an owner to obtain a permit for a short term rental. (5) Allows a local unit to charge a permit fee of not more than \$150. (6) Allows a local unit to limit or prohibit short term rentals located within a conservancy district. 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.

**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.  
January 16, 2018, amended, reported — Do Pass.

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HB 1035—LS 6529/DI 120





January 16, 2018

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 36-1-24 IS ADDED TO THE INDIANA CODE AS  
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2018]:  
4 **Chapter 24. Short Term Rentals**  
5 **Sec. 1. (a) This chapter does not apply to a unit that has adopted**  
6 **an ordinance before January 1, 2018, that prohibits, regulates, or**  
7 **restricts short term rentals contrary to this chapter.**  
8 **(b) A unit may amend or delete any provision of an ordinance**  
9 **described in subsection (a) after December 31, 2017, without**  
10 **complying with or becoming subject to this chapter.**  
11 **(c) A unit may repeal an ordinance described in subsection (a).**  
12 **However, in repealing the ordinance, the unit concurrently**  
13 **becomes subject to this chapter.**  
14 **Sec. 2. As used in this chapter, "short term rental" means the**  
15 **rental of:**  
16 **(1) a single family home;**  
17 **(2) a dwelling unit in a single family home;**

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1           (3) a dwelling unit in a two-family or multifamily dwelling; or

2           (4) a dwelling unit in a condominium, cooperative, or time  
3           share;

4           for terms of less than thirty (30) days at a time through a short  
5           term rental platform. The term includes a detached accessory  
6           structure, including a guest house, or other living quarters that are  
7           intended for human habitation, if the entire property is designated  
8           for a single family residential use. The term does not include  
9           property that is used for any nonresidential use.

10          Sec. 3. As used in this chapter, "short term rental platform"  
11          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          Sec. 4. As used in this chapter, "owner" means a person that has  
16          an interest in title or a present possessory interest in property that  
17          is offered to the public as a short term rental.

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

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

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

29          Sec. 8. (a) This section applies only to a short term rental  
30          property that is not an owner occupied short term rental property.

31           (b) A unit may require a special exception, special use, or zoning  
32           variance for the short term rental property that is in a residential  
33           zoning district or classification of a unit. However, the unit may not  
34           interpret and enforce the unit's zoning regulations for a special  
35           exception, special use, or zoning variance in a manner that is  
36           intended or has the effect of prohibiting or unreasonably  
37           restricting short term rentals of property to which this section  
38           applies. Denial of a special exception, special use, or zoning  
39           variance for the short term rental property may be appealed in  
40           accordance with IC 36-7-4.

41          Sec. 9. A unit may enact or enforce a law or plan that regulates,  
42          prohibits, or limits short term rentals only for the following



- 1       **primary purposes:**  
 2           **(1) Protection of the public's health and safety related to:**  
 3               **(A) fire and building safety;**  
 4               **(B) sanitation;**  
 5               **(C) transportation;**  
 6               **(D) traffic control; and**  
 7               **(E) pollution control;**  
 8       **if enforcement is performed in the same manner as**  
 9       **enforcement that applies to similar properties that are not**  
 10       **short term rentals.**  
 11       **(2) Residential use and zoning related to:**  
 12               **(A) noise;**  
 13               **(B) protection of welfare;**  
 14               **(C) property maintenance; and**  
 15               **(D) nuisance issues;**  
 16       **if enforcement is performed in the same manner as**  
 17       **enforcement that applies to similar properties that are not**  
 18       **short term rentals.**  
 19       **(3) To limit or prohibit use of short term rentals for the**  
 20       **following purposes:**  
 21               **(A) To house sex offenders.**  
 22               **(B) To operate a structured sober living home.**  
 23               **(C) To manufacture, exhibit, distribute, or sell illegal**  
 24               **drugs, liquor, pornography, or obscenity.**  
 25               **(D) To operate an adult entertainment establishment (as**  
 26               **defined in IC 12-7-2-1.8).**  
 27       **(4) To limit or prohibit short term rentals located within the**  
 28       **boundaries of a conservancy district established under**  
 29       **IC 14-33.**  
 30       **(5) To provide the unit with an emergency contact for a short**  
 31       **term rental.**  
 32       **Sec. 10. (a) A unit may require an owner to obtain a permit for**  
 33       **a short term rental by adopting an ordinance that sets forth only**  
 34       **the requirements of this chapter for obtaining a permit. If an**  
 35       **ordinance is adopted, an owner must submit a permit application**  
 36       **to the unit for each short term rental property owned by the**  
 37       **owner. The application may require the owner to provide only the**  
 38       **following information for each short term rental:**  
 39               **(1) The owner's name, street address, mailing address,**  
 40               **electronic mail address (if applicable), and telephone number.**  
 41               **If the owner is a corporation or partnership, the application**  
 42               **must require the owner's:**



- 1 (A) state of incorporation or organization; and  
 2 (B) names, residence addresses, and telephone numbers of  
 3 principal officers or partners.  
 4 (2) If a property manager is used, the property manager's  
 5 name, street address, mailing address, electronic mail address  
 6 (if applicable), and telephone number.  
 7 (3) A short description of how the short term rental is  
 8 marketed or advertised, including:  
 9 (A) the advertised occupancy limits of the short term  
 10 rental; and  
 11 (B) whether the short term rental is an entire single family  
 12 dwelling or a dwelling unit within a single family dwelling.  
 13 (b) A permit application must be made by an owner. If the  
 14 owner is a corporation, partnership, or other legal entity, the  
 15 permit application must be made by an officer or agent of the  
 16 owner.  
 17 (c) Subject to section 15 of this chapter, if an owner submits a  
 18 permit application for a short term rental under this section that  
 19 meets the requirements set forth in the ordinance adopted by the  
 20 unit, the unit shall issue a permit to the owner within thirty (30)  
 21 days of receipt of the application.  
 22 Sec. 11. If any information provided by an owner to a unit under  
 23 section 10 of this chapter changes, the owner shall provide updated  
 24 information to the unit in writing within thirty (30) business days.  
 25 Sec. 12. (a) A permit expires one (1) year after the date the  
 26 permit is issued.  
 27 (b) A unit may charge a permit fee that varies based upon  
 28 whether the short term rental is an entire single family home, a  
 29 dwelling unit in a single family home, a dwelling unit in a  
 30 two-family dwelling, or a dwelling unit in a multifamily dwelling.  
 31 A permit fee may not exceed one hundred fifty dollars (\$150).  
 32 Sec. 13. If three (3) or more citations for ordinance violations  
 33 are issued to an owner for a short term rental within a calendar  
 34 year, the unit may revoke the permit for that short term rental for  
 35 a period of not more than one (1) year after the date the permit is  
 36 revoked. The unit shall provide notice and a hearing for revocation  
 37 in accordance with the unit's ordinance.  
 38 Sec. 14. If a unit revokes a permit under this chapter, revocation  
 39 of the permit shall be conducted under the notice and hearing  
 40 procedures of the unit for revocation of other permits issued by the  
 41 unit.  
 42 Sec. 15. An owner may apply for a permit for a short term



1 rental for which a previous permit of the owner was revoked by the  
2 unit. However, a new permit may not be issued until any  
3 outstanding fines are paid for ordinance violation citations issued  
4 to the owner with regard to use of the short term rental.

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

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

11 (b) Each short term rental transaction that the short term rental  
12 provider completes without a short term rental permit constitutes  
13 a separate violation of this section.

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

- 17 (1) homeowners association;  
18 (2) condominium association;  
19 (3) lake owners association; or  
20 (4) similar property owners association or cooperative.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1035, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 32.

Page 3, line 5, delete "of the following property for terms of less than thirty (30)" and insert "**of:**".

Page 3, delete lines 6 through 11, begin a new line block indented and insert:

**"(1) a single family home;**

**(2) a dwelling unit in a single family home;**

**(3) a dwelling unit in a two-family or multifamily dwelling; or**

**(4) a dwelling unit in a condominium, cooperative, or time share;**

**for terms of less than thirty (30) days at a time through a short term rental platform."**

Page 3, run in lines 5 through 16.

Page 3, delete lines 36 through 42, begin a new paragraph and insert:

**"Sec. 8. (a) This section applies only to a short term rental property that is not an owner occupied short term rental property.**

**(b) A unit may require a special exception, special use, or zoning variance for the short term rental property that is in a residential zoning district or classification of a unit. However, the unit may not interpret and enforce the unit's zoning regulations for a special exception, special use, or zoning variance in a manner that is intended or has the effect of prohibiting or unreasonably restricting short term rentals of property to which this section applies. Denial of a special exception, special use, or zoning variance for the short term rental property may be appealed in accordance with IC 36-7-4."**

Page 4, delete lines 1 through 4.

Page 4, line 5, delete "regulates" and insert "**regulates, prohibits, or limits**".

Page 5, delete lines 18 and 19.



Page 5, line 39, after "(3)" insert "**or more**".

Page 5, line 42, delete "year." and insert "**year after the date the permit is revoked.**".

Renumber all SECTIONS consecutively.  
and when so amended that said bill do pass.

(Reference is to HB 1035 as introduced.)

MAHAN

Committee Vote: yeas 12, nays 0.

