



February 23, 2018

ENGROSSED HOUSE BILL No. 1035

DIGEST OF HB 1035 (Updated February 21, 2018 3:17 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 one permit for each property of an owner, regardless of the number of dwelling units or detached accessory structures on the property that the owner offers as a short term rental. (5) Allows a local unit to charge an fee of not more than \$150 for an initial permit and for a permit issued after the revocation of a permit, but prohibits a unit from charging a fee for a permit renewal. (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.

Lehman, McNamara, Ober, Macer

(SENATE SPONSORS — MESSMER, TALLIAN)

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

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

January 18, 2018, read second time, ordered engrossed. Engrossed.

January 22, 2018, read third time, passed. Yeas 74, nays 19.

SENATE ACTION

February 1, 2018, read first time and referred to Committee on Local Government.

February 22, 2018, amended, reported favorably — Do Pass.

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February 23, 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.

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

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1 rental property" means property that is the owner's primary
2 residence and is offered to the public as a short term rental.

3 Sec. 4. As used in this chapter, "permit" means a short term
4 rental permit issued by a unit.

5 Sec. 5. As used in this chapter, "permitted property" means a
6 property that is subject to a valid, unexpired, unrevoked permit
7 under this chapter. A permitted property may contain one (1) or
8 more dwelling units offered as short term rentals.

9 Sec. 6. As used in this chapter, "short term rental" means the
10 rental of:

- 11 (1) a single family home;
- 12 (2) a dwelling unit in a single family home;
- 13 (3) a dwelling unit in a two-family or multifamily dwelling; or
- 14 (4) a dwelling unit in a condominium, cooperative, or time
15 share;

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

22 Sec. 7. As used in this chapter, "short term rental platform"
23 means an entity that:

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

27 Sec. 8. A short term rental of owner occupied short term rental
28 property is a permitted residential use under any applicable zoning
29 ordinance of a unit and may not be disallowed by any zoning
30 ordinance (as defined in IC 36-7-1-22) in a zoning district or
31 classification of a unit that permits residential use.

32 Sec. 9. (a) This section applies only to a short term rental
33 property that is not an owner occupied short term rental property.

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



1 accordance with IC 36-7-4.

2 **Sec. 10. A unit may enact or enforce a law or plan that**
 3 **regulates, prohibits, or limits short term rentals only for the**
 4 **following primary purposes:**

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

6 **(A) fire and building safety;**

7 **(B) sanitation;**

8 **(C) transportation;**

9 **(D) traffic control; and**

10 **(E) pollution control;**

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

14 **(2) Residential use and zoning related to:**

15 **(A) noise;**

16 **(B) protection of welfare;**

17 **(C) property maintenance; and**

18 **(D) nuisance issues;**

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

22 **(3) To limit or prohibit use of short term rentals for the**
 23 **following purposes:**

24 **(A) To house sex offenders.**

25 **(B) To operate a structured sober living home.**

26 **(C) To manufacture, exhibit, distribute, or sell illegal**
 27 **drugs, liquor, pornography, or obscenity.**

28 **(D) To operate an adult entertainment establishment (as**
 29 **defined in IC 12-7-2-1.8).**

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

33 **(5) To provide the unit with an emergency contact for a short**
 34 **term rental.**

35 **Sec. 11. (a) A unit may require an owner to obtain a permit for**
 36 **each property by adopting an ordinance that sets forth only the**
 37 **requirements of this chapter for obtaining a permit. A unit may**
 38 **require only one (1) permit for each single family home, two-family**
 39 **or multifamily dwelling, condominium, cooperative, or time share**
 40 **that an owner rents in whole or in part under this chapter. A**
 41 **permit covers all:**

42 **(1) dwelling units; and**



1 (2) detached accessory structures;
2 located on the permitted property that the owner offers to the
3 public as a short term rental.

4 (b) An owner must submit a permit application for each
5 property for which a permit is sought. The permit application may
6 require the owner to provide only the following information for
7 each property:

8 (1) The owner's name, street address, mailing address,
9 electronic mail address (if applicable), and telephone number.
10 If the owner is a corporation or partnership, the application
11 must require the owner's:

12 (A) state of incorporation or organization; and

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

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

18 (3) A short description of how each of the owner's short term
19 rentals on the property are marketed or advertised, including
20 the following:

21 (A) The advertised occupancy limits of each short term
22 rental.

23 (B) Whether the short term rental is:

24 (1) a single family home;

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

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

28 (4) a dwelling unit in a condominium, cooperative, or
29 time share.

30 (c) A permit application must be made by an owner. If the
31 owner is a corporation, partnership, or other legal entity, the
32 permit application must be made by an officer or agent of the
33 owner.

34 (d) Subject to section 16 of this chapter, if an owner submits a
35 permit application under this section that meets the requirements
36 set forth in the ordinance adopted by the unit, the unit shall issue
37 a permit to the owner within thirty (30) days of receipt of the
38 application.

39 Sec. 12. If any information provided by an owner to a unit in the
40 permit application changes, the owner shall provide updated
41 information to the unit in writing within thirty (30) business days.

42 Sec. 13. (a) A permit expires one (1) year after the date the



1 permit is issued.

2 (b) Except as provided in subsection (c), a unit may charge a
3 permit fee, not to exceed one hundred fifty dollars (\$150), for each
4 of the following:

5 (1) An initial permit issued to an owner for the permitted
6 property.

7 (2) The issuance of a subsequent permit to an owner for the
8 permitted property after the owner's previous permit has
9 been revoked.

10 (c) A unit may not charge a permit fee for renewing a permit,
11 including renewal of a permit that has expired.

12 Sec. 14. If three (3) or more citations for ordinance violations
13 are issued to an owner for a permitted property within a calendar
14 year, the unit may revoke the permit for that permitted property
15 for a period of not more than one (1) year after the date the permit
16 is revoked. The unit shall provide notice and a hearing for
17 revocation in accordance with the unit's ordinance.

18 Sec. 15. If a unit revokes a permit under this chapter, revocation
19 of the permit shall be conducted under the notice and hearing
20 procedures of the unit for revocation of other permits issued by the
21 unit.

22 Sec. 16. An owner may apply for a permit for a short term
23 rental for which a previous permit of the owner was revoked by the
24 unit. However, a new permit may not be issued until any
25 outstanding fines are paid for ordinance violation citations issued
26 to the owner with regard to use of the short term rental.

27 Sec. 17. If an owner sells all or part of a permitted property, the
28 permit may not be transferred to the new owner. The new owner
29 must submit an application for a new permit.

30 Sec. 18. (a) An owner that rents a short term rental without
31 obtaining a valid permit from a unit that adopts an ordinance
32 under this chapter commits a Class C infraction.

33 (b) Each short term rental transaction that the short term rental
34 provider completes without a short term rental permit constitutes
35 a separate violation of this section.

36 Sec. 19. This chapter does not affect, prohibit, preempt, or
37 render unenforceable any property or use restrictions contained in
38 properly enacted rules or regulations of a:

39 (1) homeowners association;

40 (2) condominium association;

41 (3) lake owners association; or

42 (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.

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred House Bill No. 1035, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 14 through 17.

Page 2, delete lines 1 through 14.

Page 2, line 15, delete "4." and insert "**2.**".

Page 2, line 18, delete "5." and insert "**3.**".

Page 2, line 21, delete "6." and insert "**4.**".

Page 2, line 22, delete "in accordance with section 10 of this" and insert ".".

Page 2, delete line 23.

Page 2, between lines 23 and 24, begin a new paragraph and insert:

"Sec. 5. As used in this chapter, "permitted property" means a property that is subject to a valid, unexpired, unrevoked permit under this chapter. A permitted property may contain one (1) or more dwelling units offered as short term rentals.

Sec. 6. As used in this chapter, "short term rental" means the rental of:

- (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. The term includes a detached accessory structure, including a guest house, or other living quarters that are

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intended for human habitation, if the entire property is designated for a single family residential use. The term does not include property that is used for any nonresidential use.

Sec. 7. As used in this chapter, "short term rental platform" means an entity that:

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

Page 2, line 24, delete "7." and insert "8."

Page 2, line 29, delete "8." and insert "9."

Page 2, line 41, delete "9." and insert "10."

Page 3, delete lines 32 through 42, begin a new paragraph and insert:

"Sec. 11. (a) A unit may require an owner to obtain a permit for each property by adopting an ordinance that sets forth only the requirements of this chapter for obtaining a permit. A unit may require only one (1) permit for each single family home, two-family or multifamily dwelling, condominium, cooperative, or time share that an owner rents in whole or in part under this chapter. A permit covers all:

- (1) dwelling units; and
- (2) detached accessory structures;

located on the permitted property that the owner offers to the public as a short term rental.

(b) An owner must submit a permit application for each property for which a permit is sought. The permit application may require the owner to provide only the following information for each property:

- (1) The owner's name, street address, mailing address, electronic mail address (if applicable), and telephone number. If the owner is a corporation or partnership, the application must require the owner's:
 - (A) state of incorporation or organization; and
 - (B) names, residence addresses, and telephone numbers of principal officers or partners.
- (2) If a property manager is used, the property manager's name, street address, mailing address, electronic mail address (if applicable), and telephone number.
- (3) A short description of how each of the owner's short term rentals on the property are marketed or advertised, including the following:
 - (A) The advertised occupancy limits of each short term



rental.

(B) Whether the short term rental is:

- (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.**

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

(d) Subject to section 16 of this chapter, if an owner submits a permit application under this section that meets the requirements set forth in the ordinance adopted by the unit, the unit shall issue a permit to the owner within thirty (30) days of receipt of the application.

Sec. 12. If any information provided by an owner to a unit in the permit application changes, the owner shall provide updated information to the unit in writing within thirty (30) business days.

Sec. 13. (a) A permit expires one (1) year after the date the permit is issued.

(b) Except as provided in subsection (c), a unit may charge a permit fee, not to exceed one hundred fifty dollars (\$150), for each of the following:

- (1) An initial permit issued to an owner for the permitted property.**
- (2) The issuance of a subsequent permit to an owner for the permitted property after the owner's previous permit has been revoked.**

(c) A unit may not charge a permit fee for renewing a permit, including renewal of a permit that has expired."

Page 4, delete lines 1 through 31.

Page 4, line 32, delete "13." and insert "14."

Page 4, line 33, delete "short term rental" and insert "**permitted property**".

Page 4, line 34, delete "short term rental" and insert "**permitted property**".

Page 4, line 38, delete "14." and insert "15."

Page 4, line 42, delete "15." and insert "16."

Page 5, delete lines 5 through 7, begin a new paragraph and insert:
"Sec. 17. If an owner sells all or part of a permitted property,



the permit may not be transferred to the new owner. The new owner must submit an application for a new permit."

Page 5, line 8, delete "17." and insert "**18.**".

Page 5, line 9, delete "short term rental".

Page 5, line 14, delete "18." and insert "**19.**".

and when so amended that said bill do pass.

(Reference is to HB 1035 as printed January 16, 2018.)

BUCK, Chairperson

Committee Vote: Yeas 7, Nays 0.

