



Reprinted
February 27, 2018

ENGROSSED HOUSE BILL No. 1035

DIGEST OF HB 1035 (Updated February 26, 2018 2:48 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
(Continued next page)

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.

February 26, 2018, read second time, amended, ordered engrossed.

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Digest Continued

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. Excludes property owners associations from the provisions of the bill.



Reprinted
February 27, 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 **a zoning ordinance or any other ordinance before January 1, 2018,**
7 **that prohibits, regulates, or restricts short term rentals in any**
8 **manner.**

9 **(b) Any reference in this chapter (except for this section) to a**
10 **zoning ordinance or other ordinance does not apply to a zoning**
11 **ordinance or other ordinance of a unit described in subsection (a).**

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

15 **(d) A unit may repeal an ordinance described in subsection (a).**
16 **However, in repealing the ordinance, the unit concurrently**
17 **becomes subject to this chapter.**

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1 **Sec. 2.** As used in this chapter, "owner" means a person that has
 2 an interest in title or a present possessory interest in property that
 3 is offered to the public as a short term rental.

4 **Sec. 3.** As used in this chapter, "owner occupied short term
 5 rental property" means property that is the owner's primary
 6 residence and is offered to the public as a short term rental.

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

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

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

- 15 (1) a single family home;
- 16 (2) a dwelling unit in a single family home;
- 17 (3) a dwelling unit in a two-family or multifamily dwelling; or
- 18 (4) a dwelling unit in a condominium, cooperative, or time
 19 share;

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

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

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

31 **Sec. 8.** 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. 9.** (a) This section applies only to a short term rental
 37 property that is not an owner occupied short term rental property.

38 (b) A unit may require a special exception, special use, or zoning
 39 variance for the short term rental property that is in a residential
 40 zoning district or classification of a unit. However, the unit may not
 41 interpret and enforce the unit's zoning regulations for a special
 42 exception, special use, or zoning variance in a manner that is



1 intended or has the effect of prohibiting or unreasonably
 2 restricting short term rentals of property to which this section
 3 applies. Denial of a special exception, special use, or zoning
 4 variance for the short term rental property may be appealed in
 5 accordance with IC 36-7-4.

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

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

10 (A) fire and building safety;

11 (B) sanitation;

12 (C) transportation;

13 (D) traffic control; and

14 (E) pollution control;

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

18 (2) Residential use and zoning related to:

19 (A) noise;

20 (B) protection of welfare;

21 (C) property maintenance; and

22 (D) nuisance issues;

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

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

28 (A) To house sex offenders.

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

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

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

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

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

39 **Sec. 11. (a)** A unit may require an owner to obtain a permit for
 40 each property by adopting an ordinance that sets forth only the
 41 requirements of this chapter for obtaining a permit. A unit may
 42 require only one (1) permit for each single family home, two-family



1 or multifamily dwelling, condominium, cooperative, or time share
 2 that an owner rents in whole or in part under this chapter. A
 3 permit covers all:

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

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

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

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

14 If the owner is a corporation or partnership, the application
 15 must require the owner's:

16 (A) state of incorporation or organization; and

17 (B) names, residence addresses, and telephone numbers of
 18 the owner's principal officers or partners.

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

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

25 (A) The advertised occupancy limits of each short term
 26 rental.

27 (B) Whether the short term rental is:

28 (i) a single family home;

29 (ii) a dwelling unit in a single family home;

30 (iii) a dwelling unit in a two-family or multifamily
 31 dwelling; or

32 (iv) a dwelling unit in a condominium, cooperative, or
 33 time share.

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

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



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

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

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

9 **(1) An initial permit issued to an owner for the permitted**
 10 **property.**

11 **(2) The issuance of a subsequent permit to an owner for the**
 12 **permitted property after the owner's previous permit has**
 13 **been revoked.**

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

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

22 **Sec. 15. If a unit revokes a permit under this chapter, revocation**
 23 **of the permit shall be conducted under the notice and hearing**
 24 **procedures of the unit for revocation of other permits issued by the**
 25 **unit.**

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

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

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

37 **(b) Each short term rental transaction that the short term rental**
 38 **provider completes without a short term rental permit constitutes**
 39 **a separate violation of this section.**

40 **Sec. 19. This chapter does not affect, prohibit, preempt, or**
 41 **render unenforceable any property or use restrictions contained in**
 42 **properly enacted rules or regulations of a:**



- 1 **(1) homeowners association;**
- 2 **(2) condominium association;**
- 3 **(3) lake owners association; or**
- 4 **(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.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1035 be amended to read as follows:

Page 1, delete lines 5 through 7, begin a new paragraph and insert:

"Sec. 1. (a) This chapter does not apply to a unit that has adopted a zoning ordinance or any other ordinance before January 1, 2018, that prohibits, regulates, or restricts short term rentals in any manner.

(b) Any reference in this chapter (except for this section) to a zoning ordinance or other ordinance does not apply to a zoning ordinance or other ordinance of a unit described in subsection (a)."

Page 1, line 8, delete "(b)" and insert "**(c)**".

Page 1, line 11, delete "(c)" and insert "**(d)**".

Page 4, line 13, after "of" insert "**the owner's**".

Page 4, line 24, delete "(1)" and insert "**(i)**".

Page 4, line 25, delete "(2)" and insert "**(ii)**".

Page 4, line 26, delete "(3)" and insert "**(iii)**".

Page 4, line 28, delete "(4)" and insert "**(iv)**".

(Reference is to EHB 1035 as printed February 23, 2018.)

TALLIAN

