

HOUSE BILL No. 1123

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1-24.

Synopsis: Short term rentals. Prohibits offering a property for short term rental that is: (1) designated as affordable or subject to rental assistance; (2) subject to any law that prohibits the leasing or subleasing of the property; or (3) subject to an enforcement order issued under the unsafe building law. Requires a listing or advertisement on a short term rental platform (platform) to display the permit number issued by the unit. Provides that if an owner of a short term rental (owner) fails to correct or remove a listing on a platform displaying a missing or erroneous permit number, the owner commits a Class C infraction. Specifies that a unit may regulate, prohibit, or limit short term rentals for the purpose of protecting and promoting the public's health, safety, comfort, convenience, and general welfare. (Current law provides that the purpose may only be for protecting the public's health and safety.) Allows a unit to require an owner to provide a written statement with the permit application verifying that the owner reviewed any applicable leases, bylaws, rules, or regulations of a homeowners or condominium association or cooperative and has no knowledge that the short term rental violates any of these provisions. Requires an owner to provide on the permit application: (1) all platforms upon which the short term rental is listed; and (2) an emergency contact telephone number that is available 24 hours a day, 7 days a week, to take complaints regarding the operation of the short term rental.

Effective: July 1, 2020.

Jackson

January 8, 2020, read first time and referred to Committee on Local Government.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1123

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

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

1 SECTION 1. IC 36-1-24-1.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2020]: **Sec. 1.5. As used in this chapter, "listing" means a listing**
4 **or advertisement on a platform marketing a property offered by an**
5 **owner for short term rental.**

6 SECTION 2. IC 36-1-24-5.5 IS ADDED TO THE INDIANA CODE
7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2020]: **Sec. 5.5. As used in this chapter, "platform" means an**
9 **entity that:**

10 **(1) provides a platform through which unaffiliated parties list**
11 **or advertise properties offered for short term rental; and**

12 **(2) collects consideration for short term rental of the**
13 **properties.**

14 SECTION 3. IC 36-1-24-6, AS ADDED BY P.L.73-2018,
15 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2020]: **Sec. 6. As used in this chapter, "short term rental"**
17 **means the rental of:**



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

11 SECTION 4. IC 36-1-24-7 IS REPEALED [EFFECTIVE JULY 1,
 12 2020]. **Sec. 7. As used in this chapter, "short term rental platform"**
 13 **means an entity that:**

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

17 SECTION 5. IC 36-1-24-7.5 IS ADDED TO THE INDIANA CODE
 18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 19 1, 2020]: **Sec. 7.5. (a) If a unit issues permits under this chapter, an**
 20 **owner of a short term rental property must have a valid permit**
 21 **before listing the property on a platform.**

22 **(b) A unit may not issue or renew a permit for a property that**
 23 **is:**

- 24 (1) designated as below market rate or income-restricted,
 25 subject to affordability covenants, or otherwise subject to
 26 housing or rental assistance under local, state, or federal law;
 27 (2) subject to any requirement of local, state, or federal law
 28 that prohibits the leasing or subleasing of the property or use
 29 of the property as a short term rental; or
 30 (3) subject to a continuous enforcement order as defined in
 31 **IC 36-7-9-2.**

32 SECTION 6. IC 36-1-24-10, AS ADDED BY P.L.73-2018,
 33 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2020]: **Sec. 10. A unit may enact or enforce a law or plan that**
 35 **regulates, prohibits, or limits short term rentals only for the following**
 36 **primary purposes:**

- 37 (1) **Protection and promotion** of the public's health, **and** safety,
 38 **comfort, convenience, and general welfare and** related to:
 39 (A) fire and building safety;
 40 (B) sanitation;
 41 (C) transportation;
 42 (D) traffic control; and



- 1 (E) pollution control;
- 2 if enforcement is performed in the same manner as enforcement
- 3 that applies to similar properties that are not short term rentals.
- 4 (2) Residential use and zoning related to:
- 5 (A) noise;
- 6 (B) protection of welfare;
- 7 (C) property maintenance; and
- 8 (D) nuisance issues;
- 9 if enforcement is performed in the same manner as enforcement
- 10 that applies to similar properties that are not short term rentals.
- 11 (3) To limit or prohibit use of short term rentals for the following
- 12 purposes:
- 13 (A) To house sex offenders.
- 14 (B) To operate a structured sober living home.
- 15 (C) To manufacture, exhibit, distribute, or sell illegal drugs,
- 16 liquor, pornography, or obscenity.
- 17 (D) To operate an adult entertainment establishment (as
- 18 defined in IC 12-7-2-1.8).
- 19 (4) To limit or prohibit short term rentals located within the
- 20 boundaries of a conservancy district established under IC 14-33.
- 21 ~~(5) To provide the unit with an emergency contact for a short term~~
- 22 ~~rental.~~

23 SECTION 7. IC 36-1-24-11, AS AMENDED BY P.L.10-2019,
 24 SECTION 134, IS AMENDED TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2020]: Sec. 11. (a) A unit may require an owner
 26 to obtain a permit for each property **offered for short term rental** by
 27 adopting an ordinance that sets forth only the requirements of this
 28 chapter for obtaining a permit.

29 **(b)** A unit may require only one (1) permit for each single family
 30 home, two-family or multifamily dwelling, condominium, cooperative,
 31 or time share that an owner rents in whole or in part under this chapter.
 32 A permit covers all:

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

35 located on the permitted property that the owner offers to the public as
 36 a short term rental. **Each permit issued by a unit for a short term**
 37 **rental property must have a unique permit number.**

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

- 41 (1) The owner's name, street address, mailing address, electronic
- 42 mail address (if applicable), and telephone number. If the owner



1 is a corporation or partnership, the application must require the:

2 (A) owner's state of incorporation or organization; and

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

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

8 **(3) An emergency contact telephone number that is available**
9 **twenty-four (24) hours a day, seven (7) days a week, to**
10 **respond to emergencies or take complaints regarding the**
11 **operation of the short term rental.**

12 **(4) All platforms on which the property is listed.**

13 ~~(3)~~ **(5) A short description of how each of the owner's short term**
14 **rentals on the property are marketed or advertised, listed,**
15 **including the following:**

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

17 (B) Whether the short term rental is:

18 (i) a single family home;

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

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

21 or

22 (iv) a dwelling unit in a condominium, cooperative, or time
23 share.

24 **(d) A unit may require the owner to submit a statement with the**
25 **permit application verifying the following with regard to each**
26 **short term rental property:**

27 **(1) The owner has reviewed any of the following that are**
28 **applicable to the property:**

29 **(A) The bylaws, rules, or regulations of any association or**
30 **cooperative as set forth in section 19 of this chapter to**
31 **which the property belongs.**

32 **(B) Any restrictive covenants applicable to the property.**

33 **(C) The lease terms, if the owner is a lessee of the property.**

34 **(2) The owner has no knowledge that offering the property as**
35 **a short term rental violates any applicable bylaws, rules,**
36 **regulations, restrictive covenants, or lease terms described in**
37 **subdivision (1).**

38 ~~(e)~~ **(e) A permit application must be made by an owner. If the owner**
39 **is a corporation, partnership, or other legal entity, the permit**
40 **application must be made by an officer or agent of the owner.**

41 ~~(f)~~ **(f) Subject to section 16 of this chapter, if an owner submits a**
42 **permit application under this section that meets the requirements set**



1 forth in the ordinance adopted by the unit, the unit shall issue a permit
 2 to the owner within ~~thirty (30)~~ **fifteen (15)** days of receipt of the
 3 application. **The owner shall provide to a platform the permit**
 4 **number of each short term rental property that is listed on the**
 5 **platform. A short term rental property listing must display the**
 6 **permit number for the property.**

7 **(g) A unit may reject an application for a permit if the**
 8 **application or the property subject to the application does not meet**
 9 **the requirements of this chapter.**

10 SECTION 8. IC 36-1-24-11.5 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2020]: **Sec. 11.5. (a) An owner shall ensure**
 13 **the accuracy of all platform listings of the short term rental.**

14 **(b) An owner shall correct or remove any listing on a platform**
 15 **that:**

16 **(1) does not display a permit number; or**

17 **(2) displays an invalid permit number.**

18 **If the unit notifies the owner of an error described in subdivision**
 19 **(1) or (2) in the owner's listing, the owner must correct or remove**
 20 **the listing not later than ten (10) days after the date the notice is**
 21 **mailed or sent electronically.**

22 **(c) If an owner's permit is revoked, the owner shall ensure all**
 23 **listings of short term rentals displaying the permit number of the**
 24 **revoked permit are removed from the platform not later than ten**
 25 **(10) days after the date of the revocation.**

26 **(d) An owner that fails to correct or remove a listing as required**
 27 **by this section commits a Class C infraction.**

28 SECTION 9. IC 36-1-24-12, AS ADDED BY P.L.73-2018,
 29 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2020]: Sec. 12. If any information provided by an owner to a
 31 unit in the permit application changes, the owner shall provide updated
 32 information to the unit in writing within ~~thirty (30)~~ **ten (10)** business
 33 days.

34 SECTION 10. IC 36-1-24-18, AS ADDED BY P.L.73-2018,
 35 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2020]: Sec. 18. (a) An owner that rents a short term rental
 37 without obtaining a valid permit from a unit that adopts an ordinance
 38 under this chapter commits a Class C infraction.

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

42 **(c) In an enforcement action under this section, in addition to an**



1 **order for a monetary judgment, the court may issue an order**
2 **enjoining the owner from future violations.**

3 SECTION 11. IC 36-1-24-25 IS ADDED TO THE INDIANA
4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2020]: **Sec. 25. Nothing in this chapter**
6 **prevents a unit or person, in addition to any other available**
7 **remedies, from bringing an action under IC 32-30-6 to abate a**
8 **nuisance against a short term rental property.**

