

# SENATE BILL No. 382

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-1-24.

**Synopsis:** Preemption of local bans on short term rentals. Provides that a local unit of government (local unit) shall not adopt any ordinance that restricts or prohibits the use of a person's primary residence as a short term rental, except for the following purposes: (1) The protection of the public's health and safety. (2) Residential use and zoning related to noise, protection of welfare, property maintenance, and nuisance issues. Provides that, in the case of residential property that is not the person's primary residence, a local unit may require a special exception, special use, or zoning variance for the short term rental of the property. Provides, however, that the local unit may not interpret and enforce the local 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 all short term rentals of the property. Exempts ordinances adopted before January 1, 1970, that are contrary to the provisions of the bill. Excludes homeowners associations and similar property owners associations from the provisions of the bill.

**Effective:** July 1, 2018.

---

---

## Messmer

---

---

January 8, 2018, read first time and referred to Committee on Commerce and Technology.

---

---



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.

## SENATE BILL No. 382

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, 1970, that restricts or prohibits**  
7 **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) without complying with or becoming**  
10 **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, "homestead credit" refers to the**  
15 **credit for homesteads that receive a standard deduction under**  
16 **IC 6-1.1-12-37.**

17 **Sec. 3. As used in this chapter, "primary residence" means**



1 residential property that is the person's principal place of  
2 residence and that qualifies for a homestead credit.

3 Sec. 4. As used in this chapter, "rental" means use of a  
4 residential property for consideration paid to the owner of the  
5 residential property.

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

13 Sec. 6. A unit shall not adopt any ordinance that restricts or  
14 prohibits the use of a person's primary residence as a short term  
15 rental except as provided in section 7 of this chapter.

16 Sec. 7. A unit may enact or enforce a law or plan that regulates  
17 short term rentals of a person's primary residence only for the  
18 following primary purposes:

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

20 (A) fire and building safety;

21 (B) sanitation;

22 (C) transportation;

23 (D) traffic control; and

24 (E) pollution control;

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

28 (2) Residential use and zoning related to:

29 (A) noise;

30 (B) protection of welfare;

31 (C) property maintenance; and

32 (D) nuisance issues;

33 if enforcement is performed in the same manner as  
34 enforcement that applies to similar properties that are not  
35 short term rentals.

36 Sec. 8. (a) This section applies to residential property that is not  
37 the owner's primary residence.

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



1 use, or zoning variance in a manner that is intended or has the  
2 effect of prohibiting or unreasonably restricting all short term  
3 rentals of residential property described in subsection (a).

4 **Sec. 9. This chapter does not affect, prohibit, preempt, or render**  
5 **unenforceable any property or use restrictions contained in**  
6 **properly enacted rules or regulations of a homeowners association**  
7 **(as defined in IC 32-25.5-2-4) or similar property owners**  
8 **association or cooperative.**

