



January 24, 2017

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## HOUSE BILL No. 1133

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DIGEST OF HB 1133 (Updated January 24, 2017 1:52 pm - DI 87)

**Citations Affected:** IC 32-31.5; IC 36-1.

**Synopsis:** Preemption of local bans on short term rentals. Specifies requirements for local unit of government regulation of short term rental of residential property. Requires maintenance of primary liability insurance equal to at least \$1,000,000 per incident for third party claims for death, bodily injury, and property damage occurring during a short term rental period. Allows a local unit to limit or prohibit short term rentals located within a conservancy district.

**Effective:** July 1, 2017.

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### Lehman, McNamara, Ober

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January 5, 2017, read first time and referred to Committee on Government and Regulatory Reform.  
January 24, 2017, amended, reported — Do Pass.

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HB 1133—LS 6680/DI 97





January 24, 2017

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

## HOUSE BILL No. 1133

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 32-31.5 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2017]:  
4 **ARTICLE 31.5. SHORT TERM RENTALS**  
5 **Chapter 1. General Provisions**  
6 **Sec. 1. This article applies only to short term rentals.**  
7 **Chapter 2. Definitions**  
8 **Sec. 1. The definitions in this chapter apply throughout this**  
9 **article.**  
10 **Sec. 2. (a) "Facilitator" means a person who:**  
11 **(1) contracts or otherwise enters into an agreement:**  
12 **(A) with a person who rents or furnishes rooms, lodgings,**  
13 **or accommodations for consideration; and**  
14 **(B) to market the rooms, lodgings, or accommodations**  
15 **through the Internet; and**  
16 **(2) accepts payment from the consumer for the room, lodging,**  
17 **or accommodation.**

HB 1133—LS 6680/DI 97



1 (b) The term does not include a licensee (as defined in  
2 IC 25-34.1-1-2(6)) under the real estate broker licensing act  
3 (IC 25-34.1) or the owner of the room, lodging, or accommodation.

4 Sec. 3. "Owner" means the person that owns a short term  
5 rental.

6 Sec. 4. "Rental" means use of a residential property for  
7 consideration paid to the owner of the residential property, directly  
8 or through a facilitator.

9 Sec. 5. (a) "Short term rental" means an individually or  
10 collectively owned:

- 11 (1) single family home;  
12 (2) dwelling unit in a single family home;  
13 (3) dwelling unit or group of dwelling units in a condominium,  
14 cooperative, or time share; or  
15 (4) owner occupied residential home;

16 that is booked for rental to the public or rented to the public for  
17 periods of less than thirty (30) consecutive days, except that the  
18 total number of days the property is booked or rented during a  
19 calendar year may not exceed one hundred eighty (180) days.

20 (b) The term does not include property that is used for any  
21 nonresidential use.

### 22 Chapter 3. Insurance Requirements

23 Sec. 1. Not later than July 15, 2017, an owner, or a facilitator on  
24 the owner's behalf, shall maintain primary liability insurance that  
25 meets the following requirements:

- 26 (1) The liability insurance is issued:  
27 (A) by an insurance company that holds a certificate of  
28 authority to do insurance business in Indiana under  
29 IC 27-1-3-20; or  
30 (B) through a surplus lines producer licensed under  
31 IC 27-1-15.8.

- 32 (2) The language of the liability insurance policy:  
33 (A) recognizes that the owner is an owner of a short term  
34 rental; and  
35 (B) covers the owner for third party claims for death,  
36 bodily injury, or property damage occurring during the  
37 short term rental period.

- 38 (3) The liability insurance must meet the following coverage  
39 requirements during a short term rental period:  
40 (A) Primary liability insurance in an amount equal to at  
41 least one million dollars (\$1,000,000) per incident for  
42 death, bodily injury, and property damage.



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**(B) The insurance required by clause (A) provided by any of the following:**

- (i) Liability insurance maintained by the owner.**
- (ii) Liability insurance maintained by the facilitator.**
- (iii) Liability insurance maintained by any combination of items (i) and (ii).**

**Sec. 2. If liability insurance maintained by an owner as described in section 1 of this chapter lapses or does not provide the required coverage:**

- (1) liability insurance maintained by the facilitator must provide the required coverage beginning with the first dollar of a claim; and**
- (2) the insurance company that issues the liability insurance described in subdivision (1) has a duty to defend the claim described in subdivision (1).**

**Sec. 3. Coverage under liability insurance maintained by a facilitator may not be dependent on a personal liability insurance company's first denying a claim for coverage under a personal liability insurance policy, nor may a personal liability insurance company be required to first deny a claim.**

**SECTION 2. IC 36-1-24 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:**

**Chapter 24. Short Term Rentals**

**Sec. 1. As used in this chapter, "rental" means use of a residential property for consideration paid to the owner of the residential property, directly or through a facilitator (as defined in IC 6-2.5-1-19.5).**

**Sec. 2. (a) As used in this chapter, "short term rental" means an individually or collectively owned:**

- (1) single family home;**
- (2) dwelling unit in a single family home;**
- (3) dwelling unit or group of dwelling units in a condominium, cooperative, or timeshare; or**
- (4) owner occupied residential home;**

**that is booked for rental to the public or rented to the public for periods of less than thirty (30) consecutive days, except that the total number of days the property is booked or rented during a calendar year may not exceed one hundred eighty (180) days.**

**(b) The term does not include property that is used for any nonresidential use.**

**Sec. 3. A unit may not do any of the following:**



- 1           **(1) Prohibit short term rentals.**  
 2           **(2) Except as provided in this chapter, enact or enforce any**  
 3           **law or plan that prohibits or regulates short term rentals.**  
 4           **(3) Restrict the use of or regulate short term rentals based on**  
 5           **the classification, use, or occupancy of the short term rental.**  
 6           **Sec. 4. A unit may enact or enforce a law or plan that regulates**  
 7           **short term rentals only for the following primary purposes:**  
 8           **(1) Protection of the public's health and safety related to:**  
 9               **(A) fire and building safety;**  
 10              **(B) sanitation;**  
 11              **(C) transportation;**  
 12              **(D) traffic control; and**  
 13              **(E) pollution control;**  
 14           **if enforcement is performed in the same manner as**  
 15           **enforcement that applies to similar properties that are not**  
 16           **short term rentals.**  
 17           **(2) To provide the unit with an emergency contact for a short**  
 18           **term rental.**  
 19           **(3) Residential use and zoning related to:**  
 20               **(A) noise;**  
 21               **(B) protection of welfare;**  
 22               **(C) property maintenance; and**  
 23               **(D) nuisance issues;**  
 24           **if enforcement is performed in the same manner as**  
 25           **enforcement that applies to similar properties that are not**  
 26           **short term rentals.**  
 27           **(4) To limit or prohibit use of short term rentals for the**  
 28           **following purposes:**  
 29               **(A) To house sex offenders.**  
 30               **(B) To operate a structured sober living home.**  
 31               **(C) To manufacture, exhibit, distribute, or sell illegal**  
 32               **drugs, liquor, pornography, or obscenity.**  
 33               **(D) To operate an adult entertainment establishment (as**  
 34               **defined in IC 12-7-2-1.8).**  
 35           **(5) To limit or prohibit short term rentals located within the**  
 36           **boundaries of a conservancy district established under**  
 37           **IC 14-33.**  
 38           **Sec. 5. This chapter does not prohibit a homeowners association**  
 39           **or similar entity from establishing limitations or prohibitions on**  
 40           **short term rentals on real property owned by any of the following:**  
 41               **(1) A member of the homeowners association or similar entity.**  
 42               **(2) The homeowners association or similar entity.**



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**(3) The members of the homeowners association or similar  
entity in common.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1133, 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, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 32-31.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

**ARTICLE 31.5. SHORT TERM RENTALS**

**Chapter 1. General Provisions**

**Sec. 1. This article applies only to short term rentals.**

**Chapter 2. Definitions**

**Sec. 1. The definitions in this chapter apply throughout this article.**

**Sec. 2. (a) "Facilitator" means a person who:**

**(1) contracts or otherwise enters into an agreement:**

**(A) with a person who rents or furnishes rooms, lodgings, or accommodations for consideration; and**

**(B) to market the rooms, lodgings, or accommodations through the Internet; and**

**(2) accepts payment from the consumer for the room, lodging, or accommodation.**

**(b) The term does not include a licensee (as defined in IC 25-34.1-1-2(6)) under the real estate broker licensing act (IC 25-34.1) or the owner of the room, lodging, or accommodation.**

**Sec. 3. "Owner" means the person that owns a short term rental.**

**Sec. 4. "Rental" means use of a residential property for consideration paid to the owner of the residential property, directly or through a facilitator.**

**Sec. 5. (a) "Short term rental" means an individually or collectively owned:**

**(1) single family home;**

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

**(3) dwelling unit or group of dwelling units in a condominium, cooperative, or time share; or**

**(4) owner occupied residential home;**

**that is booked for rental to the public or rented to the public for periods of less than thirty (30) consecutive days, except that the total number of days the property is booked or rented during a**





calendar year may not exceed one hundred eighty (180) days.

(b) The term does not include property that is used for any nonresidential use.

### **Chapter 3. Insurance Requirements**

**Sec. 1. Not later than July 15, 2017, an owner, or a facilitator on the owner's behalf, shall maintain primary liability insurance that meets the following requirements:**

- (1) The liability insurance is issued:**
  - (A) by an insurance company that holds a certificate of authority to do insurance business in Indiana under IC 27-1-3-20; or**
  - (B) through a surplus lines producer licensed under IC 27-1-15.8.**
- (2) The language of the liability insurance policy:**
  - (A) recognizes that the owner is an owner of a short term rental; and**
  - (B) covers the owner for third party claims for death, bodily injury, or property damage occurring during the short term rental period.**
- (3) The liability insurance must meet the following coverage requirements during a short term rental period:**
  - (A) Primary liability insurance in an amount equal to at least one million dollars (\$1,000,000) per incident for death, bodily injury, and property damage.**
  - (B) The insurance required by clause (A) provided by any of the following:**
    - (i) Liability insurance maintained by the owner.**
    - (ii) Liability insurance maintained by the facilitator.**
    - (iii) Liability insurance maintained by any combination of items (i) and (ii).**

**Sec. 2. If liability insurance maintained by an owner as described in section 1 of this chapter lapses or does not provide the required coverage:**

- (1) liability insurance maintained by the facilitator must provide the required coverage beginning with the first dollar of a claim; and**
- (2) the insurance company that issues the liability insurance described in subdivision (1) has a duty to defend the claim described in subdivision (1).**

**Sec. 3. Coverage under liability insurance maintained by a facilitator may not be dependent on a personal liability insurance company's first denying a claim for coverage under a personal**



**liability insurance policy, nor may a personal liability insurance company be required to first deny a claim."**

Page 1, line 16, delete "offered to the public for rental for less than thirty (30)" and insert **"booked for rental to the public or rented to the public for periods of less than thirty (30) consecutive days, except that the total number of days the property is booked or rented during a calendar year may not exceed one hundred eighty (180) days."**

Page 1, delete line 17.

Page 2, line 17, delete "does not prohibit the use of a property as a" and insert **"is performed in the same manner as enforcement that applies to similar properties that are not short term rentals."**

Page 2, delete line 18.

Page 2, between lines 36 and 37, begin a new line block indented and insert:

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

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1133 as introduced.)

MAHAN

Committee Vote: yeas 10, nays 0.

