

SHORT-TERM RENTALS LAW

By Patrick Jones



GROWTH AND TENSION

Short-term rentals first entered the market in the mid-1990s.¹ Since then, the popularity of short-term rentals has risen dramatically on platforms such as Vrbo and Airbnb. It is estimated that, in 2024, short-term rentals generated \$183 billion in global rental revenue.² In terms of market share, the short-term rental share of the United States hotel market spiked from 8% in 2018 to 15% in 2023, only five years later.³ This means more than 2.4 million properties are being used as short-term rentals by 785,000 hosts in the United States.⁴

The growth in popularity of short-term rentals for both consumers and property owners has led to tension between a variety of competing interests. On the one hand, rising hotel costs⁵ have led consumers to seek alternatives to the traditional, chain-brand hotel model. Likewise, property owners have sought ways to monetize residential real estate in a more flexible way than is provided under a year-long or month-to-month lease. At the same time, local communities have pushed back against this trend, citing concerns over a reduction in affordable housing options, higher rents, the erosion of social capital, parking availability, public safety, and many others.⁶

Indiana is no exception to this struggle. Concerns relating to short-term rentals have been raised in numerous communities as local governmental units have attempted to grapple with the issues being raised by residents. Numerous approaches have been proposed, enacted, or explored by communities, from registries in Indianapolis,⁷ to a potential moratorium in Jeffersonville,⁸ to an outright

ban on properties with certain zoning classifications in Tippecanoe County.⁹

Given this, it is essential that Indiana practitioners—particularly those assisting clients with real estate transactions, assisting clients in zoning matters, or representing units of local government—be well-versed in the law regarding short-term rentals, both at the state level and in their local geographic areas of practice. This article attempts to provide such practitioners with a brief primer to assist them in navigating short-term rental related issues.

STATE LAW AND SHORT-TERM RENTALS

During the 2018 session, Indiana's legislature enacted House Bill 1034 (codified at Ind. Code § 36-1-24) (the "Act") in an attempt to establish uniform standards governing how and when local units of government can regulate short-term rentals.

Essential Definitions

First, the Act defines "short-term rental" as 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 platform.¹⁰

The Act then distills this definition down further into owner-occupied short-term rentals,¹¹ which are properties offered to the public as a short-term rental, but which are also simultaneously the property owner's primary residence, and those short-term rentals which are not simultaneously occupied by the owner as their primary residence.

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The distinction drawn by the legislature between owner-occupied short-term rental property and short-term rental property which is not owner occupied is the most essential component of the Act. It is this distinction, under the Act, which will in most circumstances govern what regulations a unit of local government can impose on a particular piece of property as it relates to that property's use as a short-term rental.

Owner-Occupied Short-Term Rentals

Under the Act, local units of government have less ability to regulate owner occupied short-term rentals. For instance, an owner-occupied short-term rental property "is a permitted residential use under any applicable zoning ordinance of a unit and many not be disallowed by any zoning ordinance...in a zoning district or classification of a unit that permits residential use."¹²

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In other words, the Act provides that if residential use is permitted in a zoning district, so are owner-occupied short-term rentals.

Short-Term Rentals Not Owner-Occupied and Local Restrictions Generally

The Act provides that short-term rentals that are not owner-occupied may be subjected to additional regulation by local units of government. For example, a local unit of government “may require a special exception, special use, or zoning variance for the short term rental property that is in the residential zoning district or classification of a unit.”¹³ However, the local unit of government “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.”¹⁴

Likewise, the Act imposes additional restrictions on local units of government by limiting the types of regulations it can impose on short-term rentals. While a local unit of government may enact an ordinance regulating short-term rentals, it can only do so as it relates to: “(1) Protection of the public’s health and safety related to: (A) fire and building safety; (B) sanitation; (C) transportation; (D) traffic control; and (E) pollution control; if enforcement is performed in the same manner as enforcement that applies to similar properties that are not short term rentals.”¹⁵

A local unit of government may also restrict short-term rentals as it relates to noise, protection of welfare, property maintenance, and nuisance issues, but, again, any enforcement must be performed in the same manner as enforcement that applies to similar properties that are not short-term rentals.¹⁶ Finally, a local unit of government may expressly prohibit short-term rentals in only a few categories: (A) to house sex offenders; (B) to operate a structured sober living home; (C) to manufacture, exhibit, distribute, or sell illegal drugs, liquor, pornography, or obscenity; (D) to operate an adult entertainment establishment; or (E) within the boundaries of a conservancy district.¹⁷

The Act makes it difficult for local units of government to prohibit short-term rentals. Local units of government are, however, authorized under the Act to require an owner to obtain a permit for their short-term rental(s) by adopting an ordinance to that effect.¹⁸ Such a permit may require only the following information: (1) the owner’s name, street address, mailing address, electronic mail address, and telephone number; (2) if a corporation or partnership, the state of incorporation of the organization and the names, residence address, and telephone numbers of the principal officers; (3) any property manager’s name, street address, mailing address, electronic mail address, and telephone number; and (4) a description of how any short-term rental is being marketed or advertised.¹⁹ The permit may not require any additional information and its cost may not exceed \$150.²⁰

Applicability of the Act

The Act significantly curtails a local unit of government’s ability to regulate short-term rentals within

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"In short, what needs to be done to operate a short-term rental can be dramatically different from one place to the next, and it behooves a practitioner to be aware of those requirements in the geographical areas in which they practice."

its jurisdiction. This is generally a boon to owners of such properties. However, this is not always the case.

The Act "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."²¹ The "in any manner" language contained in the Act is exceptionally broad. While it has not been interpreted by Indiana's Courts, its plain meaning gives local units of government with ordinances enacted prior to January 1, 2018, restricting rental properties (including short-term rental properties) the ability to continue their regulation. Likewise,

local units of government with such ordinances are authorized under the Act to "amend or delete any provision of the ordinance...without complying with or becoming subject to [the Act]."²² As a result, local units of government with ordinances regulating short-term rentals prior to January 1, 2018, are free to amend that ordinance to address changing circumstances without subjecting the unit to the Act's provisions. However, while that provision allows amendment or deletion of "any provision" of such an ordinance without becoming subject to the statute, a unit *does* become subject to the statute if it *repeals* the ordinance that "prohibits, regulates,

or restricts short term rentals in any manner."²³ What constitutes "repeal" versus an "amendment" or "deletion" is subject to interpretation.

LOCAL REGULATION OF SHORT-TERM RENTALS

Given the Act, practitioners may get the false impression that an awareness of local law as it relates to short-term rentals is not necessary. The reality, however, is that depending on the county, city, or town in which you are practicing, the administrative requirements as it relates to short-term rentals can shift dramatically. For instance, in some localities, depending on how a parcel of property is zoned, a

property owner may be required to obtain a special exception or the use of a short-term rental on that property may be prohibited altogether. Similarly, a property owner may be required to obtain a permit prior to operating a short-term rental in one county but may have no such obligation in the neighboring county. In short, what needs to be done to operate a short-term rental can be dramatically different from one place to the next, and it behooves a practitioner to be aware of those requirements in the geographical areas in which they practice.

CONCLUSION

Short-term rentals have been a growing trend for many years now. It does not appear as if that trend will reverse course significantly in the immediate future. As a result, it is essential that practitioners representing clients in related areas understand this trend and how it is being regulated by both the state and by the local governmental units in which they practice. ☯

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ENDNOTES

1. Dennis Schaal, *History of Short-Term Rentals Filled With Arrogance and Missed Opportunities*, Yahoo Finance (May 31, 2022), available at <https://finance.yahoo.com/news/history-short-term-rentals-filled-113000922.html>.
2. Dennis Schaal, *Short-Term Rentals: Airbnb's Dominance and Booking's Gains in 1 Chart*, Yahoo Finance (March 14, 2025), available at <https://finance.yahoo.com/news/short-term-rentals-airbnbs-dominance-203000556.html>.
3. Alex Gailey, *Study: Top Vacation Spots Where Short-Term Rental Prices Jump the Most in the High Season*, Bankrate (May 21, 2025), available at <https://www.bankrate.com/real-estate/vacation-rental-study/>.
4. Lauren Shelton, *The Long Recent History of Short-Term Rentals*, National Apartment Association (November 7, 2024), available at <https://naahq.org/news/long-recent-history-short-term-rentals>.
5. *State of the Industry: Hotels Face Rising Costs and Flattening Growth, But New Travel Trends Provide Optimism*,

American Hotel & Lodging Association (February 6, 2025), available at <https://www.ahla.com/news/state-industry-hotels-face-rising-costs-and-flattening-growth-new-travel-trends-provide>.

6. Allyson E. Gold, *Community Consequences of Airbnb*, 94 Wash. L. Rev. 1577 (2019).
7. Eric Graves, *Indianapolis Registry to Crack Down on Short-Term Rental Parties Starts Up in 2025*, FOX59 (December 30, 2024), available at <https://fox59.com/indiana-news/indianapolis-registry-to-crack-down-on-short-term-rental-parties-starts-up-in-2025/>.
8. Randall Kamm, *Jeffersonville Exploring Moratorium on Airbnb, Other Short-Term Rentals*, WLKY (July 2, 2024), available at <https://www.wlky.com/article/jeffersonville-moratorium-airbnb-short-term-rentals/61479371>.
9. *Local Government Meetings Vote to Restrict Airbnb's*, WLFI (July 1, 2024), available at https://www.wlfi.com/news/local/local-government-meetings-vote-to-restrict-airbnbs/article_6395bc80-3819-11ef-8b45-ab341f6ff00c.html.
10. Ind. Code § 36-1-24-6.
11. Ind. Code § 36-1-24-3.
12. Ind. Code § 36-1-24-8.
13. Ind. Code § 36-1-24-9(b).
14. *Id.*
15. Ind. Code § 36-1-24-10(1).
16. Ind. Code § 36-1-24-10(2).
17. Ind. Code § 36-1-24-10(3)-(4).
18. Ind. Code § 36-1-24-11(a).
19. Ind. Code § 36-1-24-11(b).
20. Ind. Code § 36-1-24-13.
21. Ind. Code § 36-1-24-1(a).
22. Ind. Code § 36-1-24-1(c).
23. Ind. Code § 36-1-24-1(d).

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