

Zurich, November 26th 2024

Bills on tenancy law rejected: Status quo in Swiss tenancy law

The Swiss electorate has made up its mind: on November 24th 2024, the two revisions to the tenancy law were rejected by 53.8% and 51.6% of the vote. The aim of these revisions was to strengthen the rights of landlords. The tenants' association launched a referendum against both parliamentary proposals, which resulted in two separate popular votes - with a close result, with the majority of voters wanting to retain the current rules. Given that 60% of Swiss households are tenants, this result seems less surprising.

Termination for personal occupation: tried and tested protection mechanisms maintained

In principle, a tenancy agreement can be terminated without any particular reason. In certain situations, lessors or their relatives wish to use the residential or commercial premises themselves. This is the case when the purchaser of a property wishes to terminate the lease that is still in force after the purchase in advance, when the period of prohibition on termination must be overcome during a conciliation procedure or current or past legal proceedings, or when the tenant requests an extension of the term of the lease. In such cases, the notice is only valid if the "urgent personal need" is proven. In practice, it is more often the case that the reason is simply put forward and the property is then rented at a higher price. The requirements for urgent personal use are therefore very high.

The rejection of the Bill maintains this high standard of proof for personal needs. Landlords must continue to demonstrate that the need is urgent and cannot be met by other options. This regulation ensures that terminations on the grounds of personal need are only made in cases of genuine need.

Subletting: Flexibility for tenants pre- served

The current provisions on subletting also remain unchanged. Tenants may sublet all or part of their home or business premises provided they obtain the landlord's agreement. This does not have to be in writing, as the rejected draft provided, but in practice it is generally requested in writing. Consent may continue to be refused only on the following clearly defined grounds:

1. If the terms of the sublease are not disclosed.
2. If the conditions are unfair in relation to the main tenancy agreement, for example because of excessive rents.
3. If the lessor suffers major inconvenience, for example major disruption.

The draft also envisaged extending the right of extraordinary termination in the event of subletting without consent or on the wrong basis. However, current law already provides that such conduct may result in termination of the lease, so adoption of the draft would not have led to any major change on this point.

The rejected draft would have introduced additional restrictions, including the possibility of a general ban on subletting for more than two years. Under current law, the term of the lease can be as long as you wish, as long as you intend to return to your own home. If this intention to return is disputed, the burden of proof lies with the landlord. If, as the lessor, you wish to limit the duration of the sublease, you can ask the tenant to make a declaration stating how long the property is sublet or when the tenant intends to return to the property. The agreement is then valid for that period.

With this rejection, sub-letting options for tenants therefore remain largely flexible, with no additional obstacles or restrictions.

A vote for the stability of tenancy law

The rejection of these proposals shows that the majority of the electorate do not see the need for the proposed changes. In particular, the strict requirements for termination on the grounds of personal need and the tried and tested rules on subletting are seen as striking the right balance between the interests of tenants and landlords.

A signal for the future of Swiss tenancy law

Although both proposals were rejected, tenancy law remains a central issue on the political agenda. A new vote could be held as early as next spring, on far-reaching changes. In particular, it is planned to make the criteria for setting rents more flexible, so that it will be easier to prove that rents are in line with local and neighbourhood practices. The second project aims to make it more difficult to contest initial rents. It is to be expected that the tenants' association will also launch a referendum against these plans. The recent vote could serve as an indicator of the public's attitude to any future tightening of tenancy law.

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