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Federal Act on Second Homes (Second Homes Act, SHA)

of 20 March 2015 (Status as of 1 January 2016)

The Federal Assembly of the Swiss Confederation,

on the basis of Articles 75 and 75b of the Federal Constitution¹,
and having considered the Federal Council Dispatch dated 19 February 2014²,
decrees:

Chapter 1 General Provisions

Art. 1 Subject matter

This Act regulates the permissibility of building new homes together with changes to the structure and use of existing homes in communes with a proportion of second homes exceeding 20 per cent.

Art. 2 Definitions

¹ In this Act, «home» means a collection of rooms that:

- a. is suitable for residential use;
- b. forms a structural unit;
- c. has an access either from outside or from a common area shared with other homes within the building;
- d. has cooking facilities; and
- e. is not a moveable object.

² In this Act, «principal home» means a home that is occupied by at least one person who is permanently resident in the commune in which the home is located in accordance with Article 3 letter b of the Register Harmonisation Act of 23 June 2006³.

AS 2015 5657

¹ SR 101

² BBI 2014 2287

³ SR 431.02

³ The following homes are deemed equivalent to principal homes:

- a. homes that are permanently occupied for commercial or educational purposes;
- b. homes that are permanently occupied by a private household that permanently occupies another home in the same building;
- c. homes that are permanently occupied by persons who are not required to register with the residents' register office, such as diplomatic staff or asylum seekers;
- d. homes that have been unoccupied for no more than two years, are habitable, and are advertised for long-term rent or for sale (empty homes);
- e. homes that are used for agricultural purposes but which due to the altitude of their location are not accessible all year round for agricultural purposes;
- f. homes that are used by businesses for the short-term accommodation of staff;
- g. homes that are used as service accommodation for persons such as those working in the hotel and catering industry, in hospitals and in residential institutions;
- h. homes that are lawfully being used temporarily for non-residential purposes.

⁴ In this Act, «second home» means a home that is neither a principal home nor equivalent to a principal home.

Art. 3 Duties and powers of the cantons

¹ Where required, the cantons shall specify in their structure plan measures to encourage greater occupancy of second homes and to promote the hotel industry and reasonably priced principal homes.

² They may issue regulations that limit the construction and use of homes more strictly than this Act.

Chapter 2 Inventory of Homes and Proportion of Second Homes

Art. 4 Inventory of homes

¹ Each commune shall draw up an inventory of homes each year.

² The inventory of homes must as a minimum indicate the total number of homes and the number of principal homes.

³ The commune may also list homes deemed equivalent to principal homes as a separate category and add this category of homes to the principal homes.

⁴ The Federal Council shall regulate the requirements for the inventory of homes and determine the details of its publication.

Art. 5 Determining the proportion of second homes

¹ The Confederation shall determine the proportion of second homes when compared with the total number of homes for each commune based on the inventory of homes in accordance with Article 4.

² If a commune does not submit its inventory of homes within the required deadline, it shall be assumed that the commune concerned has a proportion of second homes in excess of 20 per cent. The competent federal authority may extend the deadline at the request of the commune if there is good cause.

³ The Federal Council shall specify the federal authority that determines the proportion of second homes.

⁴ This authority shall consult the canton in which the commune is located before reaching its decision.

Chapter 3 Ban on the Construction of New Second Homes**Art. 6**

¹ In communes in which the proportion of second homes determined in accordance with Article 5 exceeds 20 per cent, no building permits may be granted for new second homes. If the proportion is less than 20 per cent and if granting a building permit would result in the commune having a proportion of second homes in excess of 20 per cent, no building permit may be granted either.

² The construction of new homes in accordance with Article 7 paragraph 1 letter b and in accordance with Articles 8, 9, 26 or 27 is reserved.

**Chapter 4
Construction of New Homes in Communes with a Proportion of Second Homes in excess of 20 per cent****Section 1 New Homes with Restrictions on Use****Art. 7**

¹ In communes with a proportion of second homes in excess of 20 per cent, building permits may only be granted for new homes if they are used as follows:

- a. as a principal home or as a home deemed equivalent to a principal home in accordance with Article 2 paragraph 3; or
- b. as a home intended as managed tourist accommodation.

² A home is deemed to be managed tourist accommodation if it is permanently offered for the exclusively short-term use of guests on terms that are customary in the market and in the locality and in it:

- a. is located in the same building as its owner has his or her principal residence; or
- b. it is not suitable for the personal needs of the owner and is managed as part of an organised accommodation complex.

³ The building authority shall impose a restriction on use in accordance with paragraph 1 letter a or paragraph 2 letter a or b in the building permit by means of condition of use. If the building permit for a new home does not contain such a condition and in the absence of authorisation in accordance with Articles 8, 9, 26 or 27, it shall be assumed that the restriction on use in accordance with paragraph 1 letter a applies.

⁴ As soon as the building permit takes legal effect, the building authority shall instruct the land registry to note the restriction on use in the land register in respect of the property concerned.

⁵ The Federal Council shall regulate the details, in particular:

- a. the requirements that the organised accommodation complex must meet;
- b. the duty to report any change in use from a home used as managed tourist accommodation into a principal home; and
- c. the wording of its conditions of use.

Section 2 New Homes without Restrictions on Use

Art. 8 Homes used in connection with organised accommodation facilities

¹ In communes where the proportion of second homes does not exceed 20 per cent, organised accommodation facilities may be authorised to construct homes without restrictions on use in accordance with Article 7 paragraph 1 if:

- a. the complex can only be run or continue to be run profitably with the income from the construction of such homes;
- b. the owner or the operator on request provides proof that the income from the homes will be invested in constructing or running the organised accommodation;
- c. the main usable area of these homes does not exceed 20 per cent of the entire main usable area of the rooms and homes;
- d. the homes and the organised accommodation complex form a structural and functional unit, unless the regulations on preserving the appearance of the locality or cultural heritage management require otherwise; and
- e. there are no other overriding interests to the contrary.

² For homes in accordance with paragraph 1 that permanently remain the property of the organised accommodation complex and are rented out by the same, the total main usable area in accordance with paragraph 1 letter c may amount to a maximum

of 33 per cent. A related restriction on alienation must be noted in the land register. Article 7 paragraphs 4 and 5 apply by analogy.

³ If the complex constructs homes in accordance with both paragraph 1 and paragraph 2, the maximum percentage of 33 per cent shall be reduced by the value obtained by dividing the area of the homes in accordance with paragraph 1 by the sum of the area of the homes in accordance with paragraphs 1 and 2 and multiplying the result by 13 per cent.

⁴ In an organised accommodation complex that already existed on 11 March 2012, a maximum of 50 per cent of the main usable area may be converted for use as homes without restriction on use under Article 7 paragraph 1 provided:

- a. the complex has been run as such for at least 25 years;
- b. it can no longer be run profitably and cannot be converted for use as homes intended as managed tourist accommodation;
- c. the fact that the accommodation complex concerned can no longer be run profitably is not due to any failure on the part of the owner or operator; and
- d. there are no overriding interests to the contrary.

⁵ An independent expert report must be provided as proof that the requirements in paragraphs 1 or 4 have been met. The Federal Council shall regulate the details.

Art. 9 New homes in protected buildings

¹ In communes with a proportion of second homes in excess of 20 per cent, new homes without restrictions on use in accordance with Article 7 paragraph 1 may be authorised within the building zones in protected buildings or buildings that define the appearance of the locality provided:

- a. the conservation value of the building is not adversely affected, and in particular the outward appearance and basic structure of the building essentially remains unchanged;
- b. the long-term preservation of the building cannot otherwise be guaranteed; and
- c. there are no overriding interests to the contrary.

² Outside the building zones, the permissibility of new homes without restrictions on use as defined in Article 7 paragraph 1 is governed by the spatial planning legislation.

³ Other requirements of federal law and of cantonal law are reserved.