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The Insurance Law of the People' s Republic of China

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Order of the President of the People' s Republic of China
(No.11)

The Insurance Law of the People' s Republic of China, as revised and adopted at the 7th session of the Standing Committee of the 11th National People' s Congress of the People' s Republic of China on February 28, 2009, is hereby promulgated, and shall come into force on October 1, 2009.

President of the People' s Republic of China: Hu Jintao
February 28, 2009

Insurance Law of the People' s Republic of China
(adopted at the 14th session of the Standing Committee of the 8th National People' s Congress on June 30, 1995, amended at the 30th session of the Standing Committee of the 9th National People' s Congress on October 28, 2002 according to the Decision on Amending the Insurance Law of the People' s Republic of China, and revised at the 7th session of the Standing Committee of the 11th National People' s Congress on February 28, 2009)

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Chapter I General Provisions

Article 1 This Law is formulated for the purpose of regulating the insurance activities, protecting the legitimate rights and interests of parties to insurance activities, strengthening the supervision and administration of the insurance sector, maintaining the social and economic order and public interests, and promoting the healthy development of the insurance sector.

Article 2 In this Law, the term "insurance" means the commercial insurance activities where an insurance applicant pays an insurance premium to an insurer under an insurance contract and the insurer undertakes to pay the insurance money to compensate for the property loss caused by the occurrence of a potential incident

specified in the insurance contract or pay the insurance money when the insurant dies, becomes disabled or sick or reaches a specified age, time limit or any other condition specified in the contract

Article 3 All insurance activities carried out within the territory of the People's Republic of China shall be governed by this Law.

Article 4 Whoever carries out the insurance activities must abide by the laws and administrative regulations and defer to the social ethics, and shall not jeopardize the public interests.

Article 5 The parties to insurance activities shall follow the principle of good faith in their exercise of rights and performance of obligations.

Article 6 Insurance business shall be carried out by insurance companies formed according to this Law or other insurance organizations as prescribed by laws and administrative regulations. No other entity or individual shall carry out insurance business.

Article 7 Legal persons and other organizations within the territory of the People's Republic of China which need domestic insurance shall take out insurance from insurance companies within the territory of the People's Republic of China.

Article 8 The insurance, banking, securities and trust sectors shall be operated and administered separately, and insurance companies, securities institutions and trust institutions shall be formed separately, unless it is otherwise provided for by the state.

Article 9 The insurance regulatory body under the State Council shall be responsible for the supervision and administration of the insurance sector according to law. The insurance regulatory body under the State Council shall set up dispatched offices according to its needs for performing duties. The dispatched offices shall perform the duties of supervision and administration as authorized by the insurance regulatory body under the State Council.

Chapter II Insurance Contracts

Section 1 General Rules

Article 10 An insurance contract means an agreement under which the insurance applicant and insurer agree upon the insurance rights and obligations.

An insurance applicant means a person who enters into an insurance contract with an insurer and performs the obligation of paying an insurance premium under the insurance contract.

An insurer means an insurance company which enters into an insurance contract with an insurance applicant and is liable for paying indemnity or insurance money under the insurance contract.

Article 11 An insurance contract shall be concluded by agreement upon negotiation, and the rights and obligations of both parties shall be determined according to the principle of fairness.

An insurance contract shall be concluded out of free will, unless the insurance is mandated by a law or administrative regulation.

Article 12 A personal insurance applicant shall have an insurable interest in the insurant when entering into an insurance contract.

The insurant in property insurance shall have an insurable interest in the subject matter insured when an insured incident occurs.

Personal insurance shall be a type of insurance which takes the life and body of human beings as the subject matter insured.

Property insurance shall be a type of insurance which takes property and interests related thereto as the subject matter insured.

An insurant means a person whose property, life or body is covered by an insurance contract and who is entitled to claim the insurance money. An insurance applicant may be an insurant.

An insurable interest refer to a legally recognized interest owned by an insurance applicant or insurant in the subject matter insured.

Article 13 An insurance contract shall be formed after the insurance applicant applies for insurance and the insurer agrees to underwrite the insurance. The insurer shall issue an insurance policy or any other insurance certificate to the insurance applicant in a timely manner.

The insurance policy or any other insurance certificate shall expressly state the contractual contents agreed upon by both parties. Both parties may agree to state the contractual contents in any other written form.

A legally formed insurance contract shall become effective upon its formation. The insurance applicant and insurer may attach a condition or time limit for the effectiveness of the contract.

Article 14 After an insurance contract is formed, the insurance applicant shall pay an insurance premium as agreed upon, and the insurer shall start to undertake the insurance liability at the time agreed upon.

Article 15 After an insurance contract is formed, the insurance applicant may, but the insurer may not, terminate the contract, unless it is otherwise provided for by this Law or the insurance contract.

Article 16 Where the insurer makes any inquiry about the subject matter insured or about the insurant when entering into an insurance contract, the insurance applicant shall tell the truth.

Where the insurance applicant fails to perform the obligation of telling the truth as prescribed in the preceding paragraph intentionally or for gross negligence, which is enough to affect the insurer's decision on whether to underwrite the insurance or raise the insurance premium, the insurer shall have the right to rescind the insurance contract.

The right to rescind an insurance contract as prescribed in the preceding paragraph shall be annulled after the lapse of 30 days or more from the day when the insurer knows the cause of rescission. After the lapse of two years or more from the day when an insurance contract is entered into, the insurer may not rescind the contract; where an insured incident occurs, the insurer shall be liable for paying indemnity or insurance money.

Where the insurance applicant intentionally fails to perform the obligation of telling the truth, the insurer shall not be liable for paying indemnity or insurance money for an insured incident which occurs before the contract is rescinded, and shall not refund the insurance premium.

Where the insurance applicant fails to perform the obligation of telling the truth for gross negligence, which materially affects the occurrence of an insured incident, the insurer shall not be liable for paying indemnity or insurance money for an insured incident which occurs before the contract is rescinded, but shall refund the insurance premium.

Where the insurer knowing the truth which the insurance applicant fails to tell enters into an insurance contract with the insurance applicant, the insurer shall not rescind the contract and, if an insured incident occurs, shall be liable for paying indemnity or insurance money.

An insured incident means an incident within the insurance coverage as agreed upon in an insurance contract.

Article 17 Where an insurance contract is entered into by using the standard clauses of the insurer, the insurer shall provide an insurance policy with the standard clauses attached and explain the contents of the contract to the insurance applicant.

For those clauses exempting the insurer from liability in the insurance contract, the insurer shall sufficiently warn the insurance applicant of those clauses in the insurance application form, the insurance policy or any other insurance certificate,

and expressly explain the contents of those clauses to the insurance applicant in writing or verbally. If the insurer fails to make a warning or express explanation thereof, those clauses shall not be effective.

Article 18 An insurance contract shall cover the following matters:

1. the name and domicile of the insurer;
2. the names and domiciles of the insurance applicant and insurant, and the name and domicile of the beneficiary in the case of personal insurance;
3. the subject matter insured;
4. the insurance liability and liability exemption;
5. the duration of insurance and the time of commencement of insurance liability;
6. the insured amount;
7. the insurance premium and the payment method;
8. the method for paying indemnity or insurance money;
9. the liabilities for breach of contract and the resolution of disputes; and
10. the year, month and date when the contract is entered into.

The insurance applicant and insurer may agree upon other insurance-related matters in the insurance contract.

A beneficiary means a person designated by the insurant or the insurance applicant in a personal insurance contract to be entitled to claim the insurance money. An insurance applicant or insurant may be a beneficiary.

An insured amount means the upper limit of the indemnity or insurance money which the insurer is liable to pay.

Article 19 The following clauses in an insurance contract using the standard clauses of the insurer shall be null and void:

1. a clause exempting the insurer from any legal obligation or aggravating the liability of the insurance applicant or insurant; and
2. a clause excluding any legal right of the insurance applicant, insurant or beneficiary.

Article 20 The insurance applicant and insurer in an insurance contract may modify the contents of the contract upon negotiations.

To modify an insurance contract, the insurer shall endorse the insurance policy or any other insurance certificate or attach an approval slip thereto, or the insurance applicant and insurer shall enter into a written agreement on the modification.

Article 21 After knowing the occurrence of an insured incident, the insurance applicant, insurant or beneficiary shall notify the insurer in a timely manner. Where the insurance applicant, insurant or beneficiary fails to do so intentionally or for gross negligence, which makes it difficult to determine the nature, cause, degree of damage, etc. of the insured incident, the insurer shall not be liable for paying the indemnity or insurance money for the undeterminable part, unless the insurer has known or should have known the incident in a timely manner through any other channel.

Article 22 After an insured incident occurs, the insurance applicant, insurant or beneficiary claiming indemnity or insurance money against the insurer under the insurance contract shall provide the insurer with available certificates and materials related to the determination of the nature, cause, degree of damage, etc. of the incident.

If the insurer deems that the relevant certificates and materials are incomplete according to the contract, it shall notify, in a timely manner and at one time, the insurance applicant, insurant or beneficiary of all certificates and materials to be supplemented.

Article 23 After receiving an insurant's or beneficiary's claim for paying indemnity or insurance money, the insurer shall assess the claim in a timely manner. If the circumstances are complex, the insurer shall complete the assessment within 30 days, unless it is otherwise agreed upon in the insurance contract. The insurer shall notify

the insurant or beneficiary of the assessment result. For a claim which falls within the insurance coverage, the insurer shall perform the obligation of paying indemnity or insurance money within 10 days after reaching an agreement on payment of indemnity or insurance money with the insurant or beneficiary. If the insurance contract provides otherwise for the time limit for payment of indemnity or insurance money, the insurer shall perform the obligation of paying indemnity or insurance money as agreed upon therein.

Where the insurer fails to perform the obligation as prescribed in the preceding paragraph, it shall, in addition to paying the insurance money, make a compensation for the insurant's or beneficiary's loss suffered therefor.

No entity or individual shall illegally intervene in an insurer's performance of obligation of paying indemnity or insurance money or restrict an insurant's or beneficiary's right to insurance money.

Article 24 After completing an assessment under Article 23 of this Law, for a claim which does not fall within the insurance coverage, the insurer shall, within three days after completing the assessment, send a notice of its refusal to pay indemnity or insurance money to the insurant or beneficiary, and give reasons.

Article 25 Where an insurer cannot determine the amount of indemnity or insurance money to be paid within 60 days after receiving a claim for indemnity or insurance money and the relevant certificates and materials, it shall first pay the amount which may be determined according to the current certificates or materials, and after it finally determines the amount of indemnity or insurance money to be paid, pay the difference.

Article 26 The time limitation period for an insurant or beneficiary in any insurance other than life insurance to claim indemnity or insurance money against the insurer shall be two years, which shall be counted from the day when the insurant or beneficiary knows or should have known the occurrence of the insured incident. The time limitation period for an insurant or beneficiary in life insurance to claim indemnity or insurance money against the insurer shall be five years, which shall be counted from the day when the insurant or beneficiary knows or should have known the occurrence of the insured incident.

Article 27 Where the insurant or beneficiary lies about the occurrence of an insured incident which actually never occurs, and claims indemnity or insurance money against the insurer, the insurer shall have the right to rescind the insurance contract and not to return the insurance premium.

Where the insurance applicant or insurant intentionally makes an insured incident, the insurer shall have the right to rescind the insurance contract, not to undertake the liability for paying indemnity or insurance money and, subject to Article 43 of this Law, not to refund the insurance premium.

Where, after the occurrence of an insured incident, the insurance applicant, insurant or beneficiary fabricates the cause of incident or exaggerates the degree of damage by forging or altering the relevant certificates or materials or any other evidence, the insurer shall not be liable for paying indemnity or insurance money for the false part. Where the insurance applicant, insurant or beneficiary commits any of the conduct as prescribed in the preceding three paragraphs, which leads to the insurer's payment of insurance money or expenses, the insurance applicant, insurant or beneficiary shall refund the insurance money or make a compensation for the insurer's expenses.

Article 28 Reinsurance means that an insurer transfers a portion of its underwritten insurance business to other insurers in the form of cede insurance.

At the request of the reinsurer, the cedant shall notify in writing the reinsurer of the relevant information on its own liabilities and the original insurance.

Article 29 No reinsurer shall require the original insurance applicant to pay an insurance premium.

Neither the insurant nor the beneficiary in the original insurance may claim indemnity or insurance money against the reinsurer.

No cedant shall refuse or delay the performance of its original insurance liability under the pretext that the reinsurer fails to perform the reinsurance liability.

Article 30 Where there is any dispute between the insurer and the insurance applicant, insurant or beneficiary over any clause of an insurance contract entered into by using the standard clauses of the insurer, the clause shall be interpreted as commonly understood. If there are two or more different interpretations of the clause, the people's court or the arbitral institution shall interpret the clause in favor of the insurant and beneficiary.

Section 2 Personal Insurance Contracts

Article 31 A insurance applicant shall have an insurable interest in any of the following persons:

1. self;
2. spouse, children and parents of the insurance applicant;
3. family members or close relatives other than those specified in the preceding paragraph with whom the insurance applicant has a relationship of support or maintenance; and
4. workers who have labor relationships with the insurance applicant.

In addition to the preceding paragraph, if the insurant agrees that the insurance applicant enters into an insurance contract for the insurant, the insurant applicant shall be deemed to have an insurable interest in the insurant.

Where the insurance applicant enters into an insurance contract without an insurable interest in the insurant, the contract shall be null and void.

Article 32 Where the insurance applicant falsely declares the age of the insurant and the real age of the insurant fails to meet the age requirement in the insurance contract, the insurer may rescind the contract, and refund the cash value of the insurance policy as agreed upon in the contract. An insurer's exercise of the right to rescind an insurance contract shall be subject to paragraphs 3 and 6 of Article 16 of this Law.

Where the insurance applicant falsely declares the age of the insurant and thus pays an insurance premium less than the due insurance premium, the insurer shall have the right to correct and require the insurance applicant to make up the unpaid insurance premium, or pay insurance money according to the proportion between the actually paid insurance premium and the due insurance premium.

Where the insurance applicant falsely declares the age of the insurant and thus pays an insurance premium more than the due insurance premium, the insurer shall refund the overpaid insurance premium to the insurance applicant.

Article 33 No insurance applicant shall take out any personal insurance in which insurance money shall be paid conditioned upon the death of the insurant for a person without the civil conduct capacity, and no insurer shall underwrite such insurance. Parents who take out personal insurance for their underage children shall not be subject to the preceding paragraph. However, the total insurance money paid for the death of the insurant shall not exceed the limit as prescribed by the insurance regulatory body under the State Council.

Article 34 Where an insurance contract takes death as the condition for payment of insurance money, and the insurant has not consented thereto and recognized the insured amount, the contract shall be null and void.

An insurance policy issued under a contract which takes death as the condition for payment of insurance money shall not be transferred or pledged without the written consent of the insurant.

Parents who take out personal insurance for their underage children shall not be

subject to paragraph 1 of this Article.

Article 35 An insurance applicant may pay an insurance premium to an insurer in a lump sum or in installments as agreed upon in the insurance contract.

Article 36 Where an insurance contract provides that the insurance premium shall be paid in installments, and after paying the first installment of the insurance premium, the insurance applicant fails to pay the current installment of the insurance premium beyond 30 days after the day when the insurer sends a payment notice or beyond 60 days after the day as agreed upon, the validity of the contract shall be suspended, or the insurer may reduce the insured amount according to the contract, unless it is otherwise provided for by the contract.

Where an insured incident occurs to the insurant within the time limit mentioned in the preceding paragraph, the insurer shall pay insurance money according to the contract but may deduct the underpaid insurance premium from the insurance money.

Article 37 Where the validity of an insurance contract is suspended under Article 36 of this Law, the validity of the contract may resume after the insurer and insurance applicant reach an agreement upon negotiations and the insurance applicant makes up the underpaid insurance premium. However, if both parties fail to reach an agreement two years after the day when the validity of the contract is suspended, the insurer shall have the right to rescind the contract.

If the insurer rescinds the contract under the preceding paragraph, it shall refund the cash value of the insurance policy as agreed upon in the contract.

Article 38 No insurer shall bring a lawsuit to require an insurance applicant to pay any premium for life insurance.

Article 39 The beneficiary in personal insurance shall be designated by the insurant or insurance applicant.

The insurance applicant shall obtain the consent of the insurant when designating the beneficiary. Where the insurance applicant takes out personal insurance for any worker who has a labor relationship with the insurance applicant, the insurance applicant shall not designate any person other than the insurant or a close relative thereof as the beneficiary.

For an insurant without the civil conduct capacity or with limited civil conduct capacity, his or her guardian may designate the beneficiary.

Article 40 The insurant or insurance applicant may designate one or more beneficiaries.

If there are more beneficiaries than one, the insurant or insurance applicant may determine the sequence and shares of the beneficiaries; if the shares of the beneficiaries are not determined, all beneficiaries shall equally enjoy the beneficiary right.

Article 41 The insurant or insurance applicant may change the beneficiary but shall notify the insurer in writing. The insurer shall endorse the insurance policy or any other insurance certificate or attach an approval slip thereto after receiving the written notice.

To change the beneficiary, the insurance applicant must obtain the consent of the insurant.

Article 42 After the death of the insurant, under any of the following circumstances, the insurance money shall be deemed as the legacy of the insurant, and the insurer shall perform the obligation of paying insurance money according to the Inheritance Law of the People's Republic of China:

1. no beneficiary is designated or the beneficiary is not clearly designated and cannot be determined;
2. the designated beneficiary is survived by the insurant and there is no other beneficiary; or
3. the designated beneficiary legally loses or waives the beneficiary right and there

is no other beneficiary.

Where both the beneficiary and the insurant die in a same incident, and it is impossible to determine their sequence of death, the beneficiary shall be presumed to be dead first.

Article 43 Where the insurance applicant intentionally causes the death, injury, disability or illness to the insurant, the insurer shall not be liable for paying insurance money. If the insurance applicant has paid insurance premium for two full years or more, the insurer shall return the cash value of the insurance policy to other right holders as agreed upon in the contract.

Where the beneficiary intentionally causes the death, injury, disability or illness to the insurant or attempts to murder the insurant, the beneficiary shall lose the beneficiary right.

Article 44 Where the insurant in a contract which takes death as the condition for paying insurance money commits suicide within two years from the day when the contract is formed or when the validity of the contract resumes, the insurer shall not be liable for paying insurance money, unless the insurant is a person without the civil conduct capacity at the time of suicide.

Where the insurer is exempted from the liability for paying insurance money under the preceding paragraph, it shall refund the cash value of the insurance policy as agreed upon in the contract.

Article 45 Where the insurant is injured, disabled or dead for his or her intentional commission of a crime or resistance to any legally taken criminal coercive measure, the insurer shall not be liable for paying insurance money. If the insurer has paid the insurance premium for two full years or more, the insurer shall refund the cash value of the insurance policy as agreed upon in the contract.

Article 46 For the occurrence of an insured incident such as death, injury, disability or illness caused to the insurant by the conduct of a third party, after the insurer pays insurance money to the insurant or beneficiary, the insurer shall have no right to recover the money from the third party, but the insurant or beneficiary shall still have the right to claim compensation against the third party.

Article 47 Where the insurance applicant rescinds the contract, the insurer shall refund the cash value of the insurance policy as agreed upon in the contract within 30 days from the day of receipt of the notice of contract rescission.

Section 3 Property Insurance Contracts

Article 48 The insurant which does not have an insurable interest in the subject matter insured when an insured incident occurs shall not claim insurance money against the insurer.

Article 49 Where the subject matter insured is assigned, the assignee shall succeed to the rights and obligations of the insurant.

Where the subject matter insured is assigned, the insurant or the assignee shall notify the insurer in a timely manner, unless it is a cargo transportation insurance contract or it is otherwise provided for by the contract.

If the assignment of the subject matter insured greatly raises the degree of peril, the insurer may, within 30 days from the day of receipt of the notice mentioned in the preceding paragraph, increase the insurance premium or rescind the contract as agreed upon in the contract. If the insurer rescinds the contract, it shall refund the collected insurance premium to the insurance applicant after deducting the receivable part from the day of commencement of insurance liability to the day of contract rescission.

Where the insurant or assignee fails to perform the notification obligation prescribed in paragraph 2 of this Article and an insured incident occurs because the assignment greatly raises the degree of peril of the subject matter insured, the insurer shall not be liable for paying insurance money.

Article 50 For a cargo transportation insurance contract or a voyage insurance contract for a means of transport, once the insurance liability commences, neither of the parties to the contract shall rescind the contract.

Article 51 The insurant shall abide by the state provisions on fire protection, safety, productive operation, labor protection, etc. to maintain the safety of the subject matter insured.

The insurer may check the safety status of the subject matter insured according to the contract, and offer written suggestions to the insurance applicant or insurant on eliminating unsafe factors or hidden dangers in a timely manner.

Where the insurance applicant or insurant fails to perform the duty of maintaining the safety of the subject matter insured as agreed upon, the insurer shall have the right to increase the insurance premium or rescind the contract.

To maintain the safety of the subject matter insured, the insurer may take safety precautions upon the consent of the insurant.

Article 52 Where the degree of peril of the subject matter insured greatly increases during the term of validity of the contract, the insurant shall notify the insurer in a timely manner as agreed upon in the contract, and the insurer may increase the insurance premium or terminate the contract as agreed upon in the contract. If the insurer rescinds the contract, it shall refund the insurance premium to the insurance applicant after deducting the receivable part from the day of commencement of insurance liability to the day of contract rescission as agreed upon in the contract.

Where the insurant fails to perform the notification obligation prescribed in the preceding paragraph and an insured incident occurs because the degree of peril of the subject matter insured greatly increases, the insurer shall not be liable for paying insurance money.

Article 53 Under either of the following circumstances, unless it is otherwise provided for by the contract, the insurer shall reduce the insurance premium, and calculate by day and refund the corresponding amount of insurance premium to the insurance applicant:

1. the relevant condition based on which the insurance premium rate is determined changes and the degree of peril of the subject matter insured greatly decreases; or
2. the insurable value of the subject matter insured greatly decreases.

Article 54 Where the insurance applicant requires rescission of contract before the insurance liability commences, it shall pay a commission charge to the insurer as agreed upon in the contract, and the insurer shall refund the insurance premium. Where the insurance applicant requires rescission of contract after the insurance liability commences, the insurer shall refund the insurance premium to the insurance applicant after deducting the receivable part from the day of commencement of insurance liability to the day of contract rescission as agreed upon in the contract.

Article 55 Where the insurance applicant and insurer have agreed upon the insurable value of the subject matter insured and stated it in the contract, when the subject matter insured suffers any loss, the insurable value as agreed upon shall be the standard for calculation of indemnity.

Where the insurance applicant and insurer have not agreed upon the insurable value of the subject matter insured, when the subject matter insured suffers any loss, the actual value of the subject matter insured at the time of occurrence of the insured incident shall be the standard for calculation of indemnity.

The insured amount shall not exceed the insurable value. In the case of excess, the excess shall be invalid, and the insurer shall refund the corresponding amount of insurance premium to the insurance applicant.

If the insured amount is less than the insurable value, unless it is otherwise provided for by the contract, the insurer shall be liable for paying insurance money according to the proportion between the insured amount and the insurable value.

Article 56 The insurance applicant in overlapping insurance shall notify all insurers concerned of the relevant information on the overlapping insurance.

The total insurance money paid by all insurers in overlapping insurance shall not exceed the insurable value. Unless it is otherwise provided for by the contract, each insurer shall be liable for paying insurance money according to the proportion between its insured amount and the total insured amount.

The insurance applicant in overlapping insurance may require the insurers to refund pro rata the insurance premium for the excess of the total insured amount over the insurable value.

Overlapping insurance means that an insurance applicant enters into insurance contracts with two or more insurers respectively for a same subject matter insured, a same insurance interest or a same insured incident and the total insured amount exceeds the insurable value.

Article 57 When an insured incident occurs, the insurant shall endeavor to take necessary measures to prevent or reduce losses.

The necessary and reasonable expenses paid by the insurant for preventing or reducing losses to the subject matter insured after the insured incident occurs shall be at the expense of the insurer. The amount of such expenses shall be calculated separately from the indemnity for losses to the subject matter insured, and shall not exceed the insured amount.

Article 58 Where the subject matter insured suffers a partial loss, the insurance applicant may rescind the contract within 30 days from day when the insurer pays indemnity. Unless it is otherwise provided for by the contract, the insurer may also rescind the contract but shall notify the insurance applicant 15 days in advance. If the contract is rescinded, the insurer shall refund the insurance premium for the part of the subject matter insured which has not suffered any loss to the insurance applicant after deducting the receivable part of the premium from the day of commencement of insurance liability to the day of contract rescission.

Article 59 After an insured incident occurs, if the insurer has paid the full insured amount which equals the insurable value, all rights in the subject matter insured which suffers losses shall be ascribed to the insurer; if the insured amount is less than the insurable value, the insurer shall acquire part of the rights in the subject matter insured which suffers losses according to the proportion between the insured amount and the insurable value.

Article 60 Where an insured incident occurs for any loss caused by a third party to the subject matter insured, the insurer shall, from the day when it pays insurance money to the insurant, subrogate the insurant's claim for indemnity against the third party within the extent of the indemnity amount.

Where the insurant has been indemnified for losses by the third party after the insured incident prescribed in the preceding paragraph occurs, the insurer may, when paying insurance money, deduct the corresponding amount of indemnity which the insurant has obtained from the third party.

The insurer's right of subrogation to a claim for indemnity as prescribed in paragraph 1 of this Article shall not prejudice the insurant's right to claim indemnity against the third party for the part of loss which the insurant has not been indemnified for.

Article 61 Where, after an insured incident occurs and before the insurer pays insurance money, the insurant waives the right to claim indemnity against the third party, the insurer shall not be liable for paying insurance money.

Where the insurant waives the right to claim indemnity against the third party without the consent of the insurer after the insurer pays insurance money to the insurant, the waiver shall be null and void.

Where the insurant, intentionally or for gross negligence, causes the insurer to be unable to exercise the right of subrogation to a claim for indemnity, the insurer may

deduct or require the insurant to refund the corresponding amount of insurance money.

Article 62 The insurer shall not exercise the right of subrogation to a claim for indemnity against a family member or a member of the insurant, unless the family member or the member of the insurant intentionally causes an insured incident prescribed in paragraph 1 of Article 60 of this Law.

Article 63 When the insurer exercises the right of subrogation to a claim for indemnity against a third party, the insurant shall provide the insurer with necessary documents and relevant information known by the insurant.

Article 64 The necessary and reasonable expenses paid by the insurer and insurant for ascertaining and determining the nature and cause of an insured incident or the degree of losses to the subject matter insured shall be at the expense of the insurer.

Article 65 For the damage caused by the insurant in liability insurance to a third party, the insurer may directly pay insurance money to the third party according to law or the insurance contract.

Where the insurant in liability insurance causes any damage to a third party and the insurant's liability for indemnity to the third party has been determined, at the request of the insurant, the insurer shall directly pay insurance money to the third party. If the insurant goes slow to make a request, the third party shall have the right to directly request the insurer to pay the insurance money for the damage which the third party shall be indemnified for.

Where the insurant in liability insurance causes any damage to a third party and the insurant has not indemnified the third party for the damage, the insurer shall not pay insurance money to the insurant.

Liability insurance means a type of insurance which takes the insurant's legal liability for indemnity to a third party as the subject matter insured.

Article 66 Where an arbitration or litigation is instituted against the insurant in liability insurance for an insured incident which causes damage to a third party, the arbitration or litigation costs and other necessary and reasonable expenses paid by the insurant shall be at the expense of the insurer, unless it is otherwise provided for by the insurance contract.

Chapter III Insurance Companies

Article 67 The formation of an insurance company shall be subject to the approval of the insurance regulatory body under the State Council.

When examining an application for formation of an insurance company, the insurance regulatory body under the State Council shall consider the needs of the insurance sector for development and fair competition.

Article 68 The formation of an insurance company shall meet the following requirements:

1. the insurance company's principal shareholder shall have a sustainable capability to make profits, have a good credit standing, have no record of material violation of law or regulation in the last three years and have a net assets value not less than 200 million yuan;
2. the insurance company shall have a bylaw in compliance with this Law and the Company Law of the People's Republic of China;
3. The insurance company shall have the registered capital in compliance with this Law;
4. the insurance company shall have directors, supervisors and senior managers who have the expertise and business experience required for their positions;
5. the insurance company shall have a sound organizational structure and management system;
6. the insurance company shall have business premises and other facilities related to business operation in compliance with the relevant requirements; and
7. other requirements as set out by laws, administrative regulations and the insurance regulatory body under the State Council.

Article 69 The minimum amount of registered capital of an insurance company to be formed shall be 200 million yuan.

The insurance regulatory body under the State Council may adjust the minimum amount of registered capital of an insurance company according to the business scope or scale of the insurance company, but the amount shall not be less than the amount as set out in paragraph 1 of this Article.

The registered capital of an insurance company must be paid-in monetary capital.

Article 70 To apply for forming an insurance company, the applicant shall apply in writing to the insurance regulatory body under the State Council, and submit the following materials:

1. a formation application form, which shall specify the name, registered capital, business scope, etc. of the insurance company to be formed;
2. a feasibility study report;
3. a formation preparatory plan;
4. the investor's business license or other background data and the accounting report of the last year which has been audited by an accounting firm;
5. a list of the person in charge of the formation preparatory group and the proposed chairman of the board of directors and managers who are acknowledged by the investor, and the acknowledgement certificates of such persons;
6. other materials as specified by the insurance regulatory body under the State Council.

Article 71 The insurance regulatory body under the State Council shall examine an application for forming an insurance company, make a decision on approval or disapproval of formation preparation within six months after accepting the application and notify the applicant in writing. If disapproving the application, the insurance regulatory body shall give reasons in writing.

Article 72 An applicant shall complete the formation preparation within one year after receiving the notice of approval on formation preparation, and shall not carry out any insurance business operation during the formation preparation period.

Article 73 An applicant may apply to the insurance regulatory body under the State Council for opening business if it satisfies the formation conditions as prescribed in Article 68 of this Law after completing the formation preparation.

The insurance regulatory body under the State Council shall, within 60 days after accepting the application for opening business, make a decision of approval or disapproval on opening business. If approving the application, it shall issue an insurance business operation permit; if disapproving the application, it shall notify the applicant in writing and give reasons.

Article 74 Setting up branch offices of insurance companies within the territory of the People's Republic of China shall be subject to the approval of the competent insurance regulatory body.

The branch offices of insurance companies shall have no corporate status, and their civil liabilities shall be assumed by insurance companies.

Article 75 To set up a branch office, an insurance company shall apply in writing to the competent insurance regulatory body, and submit the following materials:

1. an application form;
2. a three-year business development planning of the branch office to be set up and market analysis materials;
3. the resumes and relevant certificates of the proposed senior managers of the branch office; and
4. other materials as specified by the insurance regulatory body under the State Council.

Article 76 The competent insurance regulatory body shall examine an insurance company's application for setting up a branch office, and, within 60 days after

accepting the application, make a decision on approval or disapproval. If approving the application, it shall issue an insurance business operation permit for a branch office; if disapproving the application, it shall notify the applicant in writing and give reasons.

Article 77 The insurance company or the branch office thereof approved to be formed or set up shall conduct the registration formalities at the administrative body for industry and commerce on the basis of the insurance business operation permit, and obtain a business license.

Article 78 Where an insurance company or a branch office thereof, without any good reasons, fails to conduct the registration formalities at the administrative body for industry and commerce within six months from the day when it obtains an insurance business operation permit, its insurance business operation permit shall become invalid.

Article 79 Setting up subsidiary companies, branch offices or representative offices outside the territory of the People's Republic of China by insurance companies shall be subject to the approval of the insurance regulatory body under the State Council.

Article 80 Setting up representative offices within the territory of the People's Republic of China by foreign insurance companies shall be subject to the approval of the insurance regulatory body under the State Council. None of such representative offices shall carry out any insurance operating activity.

Article 81 The directors, supervisors and senior managers of insurance companies shall have good conduct, be familiar with laws and administrative regulations on insurance, have the management capability required for performing their duties and have obtained the corresponding post-holding qualifications approved by the competent insurance regulatory body before holding posts.

The scope of senior managers of insurance companies shall be prescribed by the insurance regulatory body under the State Council.

Article 82 A person under any of the circumstances prescribed in Article 147 of the Company Law of the People's Republic of China or any of the following circumstances shall not hold a post of director, supervisor or senior manager in an insurance company:

1. For a former director, supervisor or senior manager of a financial institution, whose post-holding qualification has been cancelled by the financial regulatory body for any lawbreaking or disciplinary violation, it has not been five years since the day when he is disqualified; or
2. for a former lawyer, certified public accountant or professional of an institution such as asset assessment institution or verification institution, whose practicing qualification has been revoked for any lawbreaking or disciplinary violation, it has not been five years since the day when he is disqualified.

Article 83 A director, supervisor or senior manager of an insurance company who breaks a law or administrative regulation or the bylaw of the company in the process of performing duties for the company and causes any loss to the company shall assume the compensatory liability.

Article 84 An insurance company shall obtain the approval of the competent insurance regulatory body under any of the following circumstances:

1. change of name;
2. change of registered capital;
3. change of business premises of the company or a branch office thereof;
4. cancellation of a branch office;
5. split or merger of the company;
6. amendment of the bylaw of the company;
7. change of any shareholder whose amount of capital contribution accounts for 5% or more of the total capital of the company which is a limited liability company, or

change of any shareholder who holds 5% or more of the shares of the company which is a joint-stock limited company; or

8. any other circumstance as specified by the insurance regulatory body under the State Council.

Article 85 Insurance companies shall retain actuaries recognized by the insurance regulatory body under the State Council, and set up an actuarial statement system. Insurance companies shall retain professionals, and set up a regulatory compliance reporting system.

Article 86 Insurance companies shall file the relevant reports, statements, documents and materials according to the requirements of the competent insurance regulatory body. The solvency reports, financial and accounting reports, actuarial statements, regulatory compliance reports and other relevant reports, statements, documents and materials of insurance companies must truthfully record the insurance business matters, and contain no false record, misleading statement or material omission.

Article 87 Insurance companies shall properly maintain complete account books, original documents and relevant materials about their insurance business operations as required by the insurance regulatory body under the State Council. ‘
The above-mentioned account books, original documents and relevant materials shall be kept for at least five years if the duration of insurance is less than one year or ten years if the duration of insurance is more than one year from the day when an insurance contract is terminated.

Article 88 To employ or dismiss an accounting firm, an asset assessment institution, a credit rating agency or any other intermediary service provider, an insurance company shall report to the competent insurance regulatory body, and, in the case of dismissal, give reasons.

Article 89 Where an insurance company needs to be dissolved as a result of any split, merger, resolution of the shareholders’ meeting or occurrence of a cause of dissolution prescribed in the bylaw of the company, it shall be dissolved upon the approval of the insurance regulatory organ under the State Council.

An insurance company which operates the life insurance business shall not be dissolved except for any split, merger or cancellation according to law.

A liquidation group shall be set up to perform liquidation of an insurance company to be dissolved.

Article 90 Where an insurance company falls under any of the circumstances prescribed in Article 2 of the Enterprise Bankruptcy Law of the People’ s Republic of China, upon the approval of the insurance regulatory body under the State Council, the insurance company or any creditor thereof may apply to the people’ s court for restructuring, reconciliation or bankruptcy liquidation; the insurance regulatory body under the State Council may also apply to the people’ s court for subjecting the company to restructuring or bankruptcy liquidation.

Article 91 The bankruptcy property shall be used for repayment in the following order after first repayment of bankruptcy fees and debts incurred for the common benefit of creditors:

1. the wages and salaries, medical fees, disability subsidies and pensions owed to employees, the basic old-age insurance premiums and basic medical insurance premiums which shall be transferred into the personal accounts of employees, and the compensations which shall be made to employees as required by laws and administrative regulations;
2. insurance indemnities or insurance money;
3. the social insurance fees other than those prescribed in subparagraph 1 and taxes owed by the company; and
4. the general creditor’ s rights in bankruptcy.

If the bankruptcy property is not enough for repayment of debts in the same order, it shall be distributed pro rata.

The salaries of the directors, supervisors and senior managers of a bankrupt insurance company shall be calculated as per the average wage of the employees of the company.

Article 92 Where an insurance company which operates the life insurance business is cancelled or declared bankrupt according to law, it must assign its life insurance contracts and liability reserve funds to another insurance company which operates the life insurance business; where it cannot reach an assignment agreement with another insurance company, the insurance regulatory body under the State Council shall designate an insurance company which operates the life insurance business to accept the assignment.

In the assignment of the life insurance contracts and liability reserve funds prescribed in the preceding paragraph or the acceptance of assignment of the same as designated by the insurance regulatory body under the State Council, the legitimate rights and interests of the insureds and beneficiaries shall be protected.

Article 93 Where an insurance company terminates its business operation according to law, its insurance business operation permit shall be revoked.

Article 94 Insurance companies shall be governed by the Company Law of the People's Republic of China, unless it is otherwise provided for by this Law.

Chapter IV Rules of Insurance Business Operation

Article 95 The scope of business of insurance companies shall be:

1. personal insurance, including life insurance, health insurance, accidental injury insurance, etc.;
2. property insurance, including property loss insurance, liability insurance, credit insurance, guarantee insurance, etc.; and
3. other insurance-related businesses approved by the insurance regulatory body under the State Council.

No insurer shall concurrently operate the personal insurance business and the property insurance business. However, upon the approval of the insurance regulatory body under the State Council, an insurance company which operates the property insurance business may operate the short-term health insurance business and the accidental injury insurance business.

Insurance companies shall operate insurance business within the scope of business approved by the insurance regulatory body under the State Council.

Article 96 Upon the approval of the insurance regulatory body under the State Council, an insurance company may operate the following reinsurance of the insurance businesses prescribed in Article 95 of this Law:

1. outward reinsurance; and
2. inward reinsurance.

Article 97 An insurance company shall draw a guarantee fund at the rate of 20% of its total registered capital, deposit it into a bank designated by the insurance regulatory body under the State Council, and use it for no purpose other than repayment of debts at the time of liquidation of the company.

Article 98 Insurance companies shall draw various liability reserve funds according to the principle of protecting the interests of insureds and guaranteeing solvency. The specific measures for insurance companies to draw and carry forward liability reserve funds shall be formulated by the insurance regulatory body under the State Council.

Article 99 Insurance companies shall draw provident funds according to law.

Article 100 Insurance companies shall pay the insurance protection funds.

The insurance protection fund shall be managed in a centralized way and used according to overall planning under the following circumstances:

1. providing remedies for insurance applicants, insureds or beneficiaries, where an

insurance company is cancelled or declared bankrupt;

2. providing remedies for the insurance company which accepts the life insurance contracts of a bankrupt insurance company, where the latter is cancelled or declared bankrupt; or
3. any other circumstance as specified by the State Council.

The specific measures for raising, managing and using the insurance protection fund shall be formulated by the State Council.

Article 101 An insurance company shall have the minimum solvency appropriate for its scale of business and degree of risk. The difference between the admissible assets and the admissible liabilities of an insurance company shall not be less than the amount prescribed by the insurance regulatory body under the State Council; otherwise, the insurance company shall take corresponding measures to reach the prescribed amount according to the requirements of the insurance regulatory body under the State Council.

Article 102 The self-retained insurance premium in the current year of an insurance company which operates the property insurance business shall not exceed four times the sum of its actual capital and provident funds.

Article 103 The liability undertaken by an insurance company for each risk unit, namely, the maximum loss caused by a single insured incident shall not exceed 10 percent of the sum of its actual capital and provident funds. The excess shall be reinsured.

Insurance companies shall classify risk units according to the provisions of the insurance regulatory body under the State Council.

Article 104 Insurance companies shall submit their methods for classifying risk units and arrangement plans on risk of major disasters to the insurance regulatory body under the State Council for archival purposes.

Article 105 Insurance companies shall make reinsurance according to the provisions of the insurance regulatory body under the State Council, and select their reinsurer in a prudent way.

Article 106 Insurance companies must use funds according to the principles of steadiness and safety.

Insurance companies may only use their funds in the following forms:

1. bank deposits;
2. trading bonds, stocks, shares of securities investment funds and other negotiable securities;
3. investing in real estate; and
4. other forms of fund use prescribed by the State Council.

The specific measures for the administration of the use of funds by insurance companies shall be formulated by the insurance regulatory body under the State Council according to the preceding two paragraphs.

Article 107 Upon the approval of the insurance regulatory body under the State Council in conjunction with the securities regulatory body under the State Council, insurance companies may set up insurance asset management companies.

Insurance asset management companies shall conduct securities investment activities according to the Securities Law of the People's Republic of China and other relevant laws and administrative regulations.

The measures for the administration of insurance asset management companies shall be formulated by the insurance regulatory body in conjunction with other relevant departments under the State Council.

Article 108 Insurance companies shall establish rules for the management and information disclosure of affiliated transactions according to the provisions of the insurance regulatory body under the State Council.

Article 109 None of the controlling shareholders, actual controllers, directors,

supervisors and senior managers of insurance companies shall damage the interests of the companies through affiliated transactions.

Article 110 Insurance companies shall truthfully, accurately and completely disclose their financial and accounting reports, risk management status, insurance product trading information and other major matters according to the provisions of the insurance regulatory body under the State Council.

Article 111 The insurance salespersons of insurance companies shall meet the qualification requirements of the insurance regulatory body under the State Council, and obtain the qualification certificates issued by the competent insurance regulatory body.

The measures for the scope and administration of the insurance salespersons mentioned in the preceding paragraph shall be provided for by the insurance regulatory body under the State Council.

Article 112 Insurance companies shall set up an insurance agent registration system and strengthen the training and administration of insurance agents, and shall not incite or induce insurance agents to act against the obligation of good faith.

Article 113 Insurance companies and their branch offices shall use the insurance business operation permit according to law, and shall not transfer, lease or lend the insurance business operation permit.

Article 114 Insurance companies shall, according to the provisions of the insurance regulatory body under the State Council, fairly and reasonably determine the insurance clauses and premium rates, without prejudice to the legitimate rights and interests of insurance applicants, insureds and beneficiaries.

Insurance companies shall perform the obligation of paying indemnity or insurance money in a timely manner according to insurance contracts and this Law.

Article 115 Insurance companies shall operate business according to the principle of fair competition, and shall not commit unfair competition.

Article 116 In their insurance business operation, insurance companies and their staff shall be prohibited from:

1. deceiving an insurance applicant, insured or beneficiary;
2. hiding any important information about an insurance contract from an insurance applicant;
3. obstructing any insurance applicant from performing, or inducing any insurance applicant not to perform, the obligation of telling the truth as prescribed in this Law;
4. giving or promising to give any insurance premium kickback or benefit other than those agreed upon in the insurance contract to an insurance applicant, insured or beneficiary;
5. refusing to legally perform the obligation of paying indemnity or insurance money under the insurance contract;
6. intentionally fabricating an insured incident which has never occurred or an insurance contract or intentionally exaggerating the degree of damage caused by an insured incident which has actually occurred for the purpose of making a false claim, swindling insurance money or seeking other illicit interests;
7. embezzling, withholding or encroaching on insurance premiums;
8. authorizing any institution or individual which has not obtained a legal qualification to carry out the insurance sales activities;
9. seeking any illicit benefit for any other institution or individual in the process of insurance business operation;
10. conducting any illegal activity such as swindling money in the form of fabricating insurance intermediary business or discharge of insurance through insurance agents, insurance brokers or insurance assessment agencies;
11. damaging the business reputation of competitors by fabrication or spreading of

misrepresented facts, or disturbing the order of the insurance market by any other act of unfair competition;

12. disclosing any trade secret of an insurance applicant or insurant which is accessed in a business activity; or

13. conducting any other act in violation of a law or administrative regulation or the provisions of the insurance regulatory body under the State Council.

Chapter V Insurance Agents and Insurance Brokers

Article 117 Insurance agents shall be institutions or individuals which charge insurers for commissions and operate the insurance business to the extent as authorized by insurers.

Insurance agencies shall include full-time insurance agencies which only operate the insurance agency business and part-time insurance agencies which concurrently operate the insurance agency business.

Article 118 Insurance brokers shall be institutions which, based on the interests of insurance applicants, provide intermediary services for insurance applicants and insurers to enter into insurance contracts, and charge commissions according to law.

Article 119 Insurance agencies and insurance brokers shall satisfy the requirements prescribed by the insurance regulatory body under the State Council, and have obtained the insurance agency business permit or brokerage business permit issued by the competent insurance regulatory body.

A full-time insurance agency or an insurance broker shall conduct the registration formalities at the administrative body for industry and commerce on the basis of the permit issued by the competent insurance regulatory body, and obtain a business license.

A part-time insurance agency shall conduct the modification registration formalities at the administrative body for industry and commerce on the basis of the permit issued by the competent insurance regulatory body.

Article 120 For a full-time insurance agency or an insurance broker to be formed as a company, its minimum amount of registered capital shall be governed by the Company Law of the People's Republic of China.

The insurance regulatory body under the State Council may adjust the minimum amount of registered capital of a full-time insurance agency or an insurance broker according to its business scope or scale, but the amount shall not be less than the amount as set out in the Company Law of the People's Republic of China.

The registered capital or capital contribution of a full-time insurance agency or an insurance broker must be paid-in monetary capital.

Article 121 The senior managers of a full-time insurance agency or an insurance broker shall have good conduct, be familiar with insurance laws and administrative regulations, have the management capability required for performing their duties and have obtained the corresponding post-holding qualifications approved by the competent insurance regulatory body before holding posts.

Article 122 Individual insurance agents, practitioners of insurance agencies and practitioners of insurance brokers shall meet the qualifications required by the insurance regulatory body under the State Council and obtain the qualification certificates issued by the competent insurance regulatory body.

Article 123 Insurance agencies and insurance brokers shall have their own business premises and set up special account books to record the revenues and expenditures of the insurance agency or brokerage business.

Article 124 Insurance agencies and insurance brokers shall deposit guarantee funds or take out professional liability insurance according to the provisions of the insurance regulatory body under the State Council. Without the approval of the competent insurance regulatory body, no insurance agency or insurance broker shall use the guarantee fund.

Article 125 No individual insurance agent may represent two or more insurers at the same time when operating the life insurance business on behalf of any insurer.

Article 126 An insurer which authorizes an insurance agent to represent it in insurance business operation shall enter into an agency agreement with the insurance agent to agree upon their rights and obligations according to law.

Article 127 An insurer shall be responsible for its insurance agent's insurance business operation to the extent of its authorization.

Where an insurance agent enters into an insurance contract in the name of an insurer without authorization, beyond authorization or after the termination of authorization and the insurance applicant has reasons to believe that the insurance agent has the authorization, the act of agency shall be valid. The insurer may hold such an agent liable for ultra vires according to law.

Article 128 An insurance broker which, for its own fault, causes any loss to an insurance applicant or insured shall assume the compensatory liability.

Article 129 Parties to insurance activities may authorize insurance assessment institutions or other legally established independent assessment institutions or persons with relevant expertise to assess and authenticate insured incidents. Institutions and persons authorized to assess and authenticate insured incidents shall conduct assessment and authentication in a legal, independent, objective and fair way and free from intervention by any other entity or individual.

An institution or person mentioned in the preceding paragraph which causes any loss to an insurer or insured intentionally or negligently shall assume the compensatory liability.

Article 130 Insurance commissions may only be paid to insurance agents and insurance brokers holding the legal qualifications, and shall not be paid to anyone else.

Article 131 In their insurance business operation, insurance agents, insurance brokers and their practitioners shall be prohibited from:

1. deceiving an insurer, insurance applicant, insured or beneficiary;
2. hiding any important information about an insurance contract from the insurance applicant;
3. obstructing any insurance applicant from performing, or inducing any insurance applicant not to perform, the obligation of telling the truth as prescribed in this Law;
4. giving or promising to give any benefit other than those agreed upon in the insurance contract to an insurance applicant, insured or beneficiary;
5. forcing or inducing any insurance applicant to enter into or restricting an insurance applicant in entering into an insurance contract by using any administrative power, position or professional advantage or by any other illicit means;
6. forging or illegally modifying any insurance contract, or providing any false evidential materials for a party to an insurance contract;
7. embezzling, withholding or encroaching on insurance premiums or insurance money;
8. seeking any illicit benefit for any other institution or individual by using business advantages;
9. colluding with any insurance applicant, insured or beneficiary to swindle insurance money; or
10. disclosing any trade secret of an insurer, insurance applicant or insured which is accessed in a business activity.

Article 132 The split, merger, change of organizational form, or formation or dissolution of a branch office of a full-time insurance agency or an insurance broker shall be subject to the approval of the competent insurance regulatory body.

Article 133 The provisions of paragraph 1 of Article 86 and Article 113 of this Law shall apply to insurance agencies and insurance brokers.

Chapter VI Supervision and Administration of the Insurance Sector

Article 134 An insurance regulatory body shall, under the principle of legality, openness and fairness, supervise and administer the insurance sector according to this Law and its duties prescribed by the State Council so as to maintain the order of the insurance market and protect the legitimate rights and interests of insurance applicants, insurants and beneficiaries.

Article 135 The insurance regulatory body under the State Council shall formulate and issue administrative rules on the supervision and administration of the insurance sector according to laws and administrative regulations.

Article 136 The insurance clauses and premium rates for insurance products which concern the public interests, compulsory insurance products and newly developed life insurance products shall be subject to the approval of the insurance regulatory body under the State Council which shall follow the principle of protecting the public interests and preventing unfair competition in the process of examination and approval. The insurance clauses and premium rates for other insurance products shall be subject to filing with the competent insurance regulatory body.

The specific measures for the examination and approval and filing of insurance clauses and premium rates shall be formulated by the insurance regulatory body under the State Council according to the preceding paragraph.

Article 137 Where any insurance clause or premium rate used by an insurance company violates a law or administrative regulation or the provisions of the insurance regulatory body under the State Council, the competent insurance regulatory body shall order the insurance company to stop using it and make correction within a prescribed time limit; and if the circumstances are serious, may prohibit the insurance company from applying for new insurance clauses or insurance premium rates within a prescribed time limit.

Article 138 The insurance regulatory body under the State Council shall set up and improve a system for the supervision and administration of the solvency of insurance companies to monitor the solvency of insurance companies.

Article 139 The insurance regulatory body under the State Council shall regard insolvent insurance companies as the key objects of supervision, and may take the following measures as the case may be:

1. ordering an increase of capital or reinsurance;
2. limiting the scope of business;
3. restricting the payment of dividends to shareholders;
4. restricting the purchase of fixed assets or the scale of operation costs;
5. restricting the forms and proportion of use of funds;
6. restricting the formation of additional branch offices;
7. ordering an auction of non-performing assets or transfer of insurance business;
8. restricting the level of salaries of directors, supervisors and senior managers;
9. restricting commercial advertisements; or
10. ordering a stop of accepting new business.

Article 140 Where an insurance company fails to draw or carry forward the liability reserve funds or conduct the reinsurance formalities as required by this Law, or seriously violates the provisions of this Law on the use of funds, the competent insurance regulatory body shall order it to make correction within a prescribed time limit, and may order it to adjust the person in charge and the relevant managers.

Article 141 Where an insurance company fails to make correction within a prescribed time limit after the competent insurance regulatory body makes a decision on the correction according to Article 140 of this Law, the insurance regulatory body under the State Council may decide to send insurance professionals and appoint the relevant persons of the insurance company to form a rectification group to make rectification on the company.

A rectification decision shall bear the name of the company subject to rectification,

the reasons for rectification, the members of the rectification group and the period of rectification, which shall be made public.

Article 142 The rectification group shall have the right to supervise the day-to-day business of the insurance company in rectification. The person in charge and the relevant managers of the insurance company in rectification shall perform their functions under the supervision of the rectification group.

Article 143 In the process of rectification, the original businesses of the insurance company in rectification shall continue. However, the insurance regulatory body under the State Council may order the company to stop some original business or stop accepting new business and adjust its use of funds.

Article 144 Where an insurance company in rectification has rectified its violations of this Law and resumed the normal business operation, the rectification group shall submit a report thereon, the rectification process shall be terminated upon the approval of the insurance regulatory body under the State Council, and the insurance regulatory body under the State Council shall make an announcement thereon.

Article 145 Where an insurance company falls under either of the following circumstances, the insurance regulatory body under the State Council may take it over:

1. the company is seriously insolvent; or
2. the company damages the public interests in violation of this Law, which may seriously endanger or has seriously endangered the solvency of the company.

The debtor-creditor relationships of the insurance company shall remain unchanged after it is taken over.

Article 146 The measures for the formation of a take-over group and the implementation of take-over shall be determined and announced by the insurance regulatory body under the State Council.

Article 147 Upon the expiration of the take-over period, the insurance regulatory body under the State Council may decide to extend the take-over period, but the take-over period shall not exceed two years at most.

Article 148 Where an insurance company in take-over resumes its normal business operation capacity upon the expiration of the take-over period, the insurance regulatory body under the State Council shall decide to terminate the take-over and make an announcement thereon.

Article 149 Where an insurance company in rectification or take-over falls under the circumstances prescribed in Article 2 of the Enterprise Bankruptcy Law of the People's Republic of China, the insurance regulatory body under the State Council may apply to the people's court for subjecting the company to restructuring or bankruptcy liquidation.

Article 150 Where the insurance business operation permit of an insurance company is revoked for illegal business operation or the solvency of an insurance company is lower than the standard prescribed by the insurance regulatory body under the State Council, and the order of the insurance market will be seriously endangered or the public interests will be seriously damaged if the company is not cancelled, the insurance regulatory body under the State Council shall cancel it, make an announcement thereon, and legally form a liquidation group to conduct liquidation in a timely manner.

Article 151 The insurance regulatory body under the State Council shall have the right to require the shareholders and actual controller of any insurance company to provide the relevant information and materials within a prescribed time limit.

Article 152 Where an shareholder of an insurance company seriously damages the interests of the company through affiliated transactions, which endangers the company's solvency, the insurance regulatory body under the State Council shall order the shareholder to make correction. Before the shareholder makes correction as required, the insurance regulatory body under the State Council may restrict the shareholder's rights of such a shareholder, and, if the shareholder refuses to make

correction, order the assignment of the shareholder's shares in the insurance company.

Article 153 An insurance regulatory body may, as required for performing its functions of supervision and administration, hold supervisory talks with the directors, supervisors and senior managers of insurance companies and require them to make explanations of major matters concerning the business operation and risk management of insurance companies.

Article 154 During the period of rectification, take-over, or liquidation as a result of cancellation of an insurance company or upon the occurrence of any major risk to an insurance company, the insurance regulatory body under the State Council may take the following measures against the directly liable directors, supervisors, senior managers and other directly liable persons of the company:

1. notifying the emigration administrative organ to prevent them from leaving this country; or
2. requesting the judicial authority to prohibit them from disposing of their property by displacement, assignment or any other means or from setting any other right in their property.

Article 155 For the purpose of performing its functions according to law, an insurance regulatory body may take the following measures:

1. making spot inspections of insurance companies, insurance agents, insurance brokers, insurance asset management companies and representative offices of foreign insurance institutions;
 2. entering a place where the occurrence of an illegal act is suspected to make investigation and take evidence;
 3. inquiring of the parties concerned and other entities and individuals related to the investigated event, and requiring them to make explanations of the relevant matters;
 4. consulting and copying materials related to the investigated event, such as materials on the registration of property rights;
 5. consulting and copying the financial and accounting materials and other relevant documents and materials of insurance companies, insurance agents, insurance brokers, insurance asset management companies, representative offices of foreign insurance institutions and other entities and individuals related to the investigated event; and sealing up the documents and materials which may be displaced, concealed or destroyed;
 6. inquiring about the bank accounts of insurance companies, insurance agents, insurance brokers, insurance asset management companies and representative offices of foreign insurance institutions which are suspected of engaging in illegal business operations and the bank accounts of the entities and individuals related to the suspected illegal matter; or
 7. upon the approval of the chief person in charge of the insurance regulatory body, applying to the people's court for freezing or sealing up any illegal funds and other involved property which, as proved, have been or may be displaced or concealed or any important evidence which, as proved, has been or may be concealed, forged or destroyed.
- To take the measure prescribed in subparagraph 1, 2 or 5 of the preceding paragraph, an insurance regulatory body shall obtain the approval of the person in charge of the body. To take the measure prescribed in subparagraph 6, an insurance regulatory body shall obtain the approval of the person in charge of the insurance regulatory body under the State Council.

Where an insurance regulatory body conducts a supervisory inspection or investigation according to law, there shall be at least two supervisory inspectors or investigators who shall present their legal certificates and a notice of supervisory inspection or investigation; if there are less than two supervisory inspectors or investigators or they fail to present their legal certificates or a notice of supervisory inspection or investigation, the entity or individual under inspection or investigation shall have the right to refuse the inspection or investigation.

Article 156 When an insurance regulatory body performs its functions according to law, the entities and individuals under inspection or investigation shall cooperate with it.

Article 157 The staff of an insurance regulatory body shall be dutiful, impartial and honest and handle affairs according to law, and shall not seek illicit benefits by taking advantage of their positions or disclose the relevant entity or individual's trade secrets which they have access to.

Article 158 The insurance regulatory body under the State Council shall set up a supervision and administration information sharing mechanism together with the People's Bank of China and other financial regulatory bodies under the State Council. When an insurance regulatory body performs its functions in the form of supervisory inspection or investigation according to law, the relevant departments shall cooperate with it.

Chapter VII Legal Responsibility

Article 159 Where anyone, in violation of this Law, forms an insurance company or insurance asset management company without approval or illegally operates the commercial insurance business, the competent insurance regulatory body shall ban it, confiscate the illegal gains and impose a fine of not less than the amount of but not more than five times the illegal gains upon it. If there are no illegal gains or the amount of illegal gains is less than 200,000 yuan, a fine of 200,000 yuan up to 1 million yuan shall be imposed upon it.

Article 160 Where anyone, in violation of this Law, forms a full-time insurance agency or an insurance broker without approval or carries out the insurance agency or brokerage business without an insurance agency or brokerage business operation permit, the competent insurance regulatory body shall ban it, confiscate the illegal gains and impose a fine of not less than the amount of but not more than five times the illegal gains upon it. If there are no illegal gains or the amount of illegal gains is less than 50,000 yuan, a fine of 50,000 yuan up to 300,000 yuan shall be imposed upon it.

Article 161 Where an insurance company, in violation of this Law, operates business beyond the approved scope of business, the competent insurance regulatory body shall order it to make correction within a prescribed time limit, confiscate the illegal gains and impose a fine of not less than the amount of but not more than five times the illegal gains upon it. If there are no illegal gains or the amount of illegal gains is less than 100,000 yuan, a fine of 100,000 yuan up to 500,000 yuan shall be imposed upon it. If the insurance company fails to make correction within the prescribed time limit or causes serious consequences, the competent insurance regulatory body shall order it to suspend business for rectification or revoke its business operation permit.

Article 162 Where an insurance company commits any of the conduct prescribed in Article 116 of this Law, the competent insurance regulatory body shall order it to make correction and impose a fine of 50,000 yuan up to 300,000 yuan upon it; and, if the circumstances are serious, restrict its scope of business, order it to stop accepting new business or revoke its business operation permit.

Article 163 Where an insurance company violates Article 84 of this Law, the competent insurance regulatory body shall order it to make correction and impose a fine of 10,000 yuan up to 100,000 yuan upon it.

Article 164 Where an insurance company, in violation of this Law, commits either of the following conduct, the competent insurance regulatory body shall order it to make correction and impose a fine of 50,000 yuan up to 300,000 yuan upon it:

1. providing excess insurance with serious circumstances; or
2. providing insurance which takes death as the condition for paying insurance money for a person without the civil conduct capacity.

Article 165 Where anyone, in violation of this Law, commits any of the following conduct, the competent insurance regulatory body shall order it to make correction and impose a fine of 50,000 yuan up to 300,000 yuan upon it; and, if the circumstances are

serious, restrict its scope of business, order it to stop accepting new business or revoke its business operation permit:

1. failing to draw the guarantee fund as required or illegally using the guarantee fund;
2. failing to draw or carry forward any liability reserve fund as required;
3. failing to pay the insurance protection fund or draw the provident funds as required;
4. failing to make reinsurance as required;
5. failing to use the capital of an insurance company as required;
6. setting up a branch office or representative office without approval; or
7. failing to apply for approval of insurance clauses or premium rates as required.

Article 166 Where an insurance agency or insurance broker commits any of the conduct prescribed in Article 131 of this Law, the competent insurance regulatory body shall order it to make correction and impose a fine of 50,000 yuan up to 300,000 yuan upon it; and, if the circumstances are serious, shall revoke its business operation permit.

Article 167 Where an insurance agency or insurance broker, in violation of this Law, commits either of the following conduct, the competent insurance regulatory body shall order it to make correction and impose a fine of 20,000 yuan up to 100,000 yuan upon it; and, if the circumstances are serious, shall order it to suspend business for rectification or revoke its business operation permit:

1. failing to deposit the guarantee fund or take out the professional liability insurance as required; or
2. failing to maintain special account books to record its revenues and expenditures as required.

Article 168 Where a full-time insurance agency or an insurance broker, in violation of this Law, sets up a branch office or changes its form of organization without approval, the competent insurance regulatory body shall order it to make correction and impose a fine of 10,000 yuan up to 50,000 yuan upon it.

Article 169 Where anyone, in violation of this Law, retains any person without the post-holding qualification or practicing qualification, the competent insurance regulatory body shall order it to make correction and impose a fine of 20,000 yuan up to 100,000 yuan upon it.

Article 170 Where anyone, in violation of this Law, transfers, leases or lends its business operation permit, the competent insurance regulatory body shall impose a fine of 10,000 yuan up to 100,000 yuan upon it; and, if the circumstances are serious, shall order it to suspend business for rectification or revoke its business operation permit.

Article 171 Where anyone, in violation of this Law, commits any of the following conduct, the competent insurance regulatory body shall order it to make correction within a prescribed time limit; and, if it fails to make correction within a prescribed time limit, shall impose a fine of 10,000 yuan up to 100,000 yuan upon it:

1. failing to file or keep reports, statements, documents and materials as required or failing to provide the relevant information or materials as required;
2. failing to file the insurance clauses or premium rates as required; or
3. failing to disclose information as required.

Article 172 Where anyone, in violation of this Law, commits any of the following conduct, the competent insurance regulatory body shall order it to make correction and impose a fine of 100,000 yuan up to 500,000 yuan upon it; and, if the circumstances are serious, may restrict its scope of business, order it to stop accepting new business or revoke its business operation permit:

1. compiling or providing any false report, statement, document or material;
2. refusing or obstructing any supervisory inspection conducted according to law; or
3. failing to use the approved or filed insurance clauses or premium rates as required.

Article 173 Where an insurance company, insurance asset management company, full-time

insurance agency or insurance broker violates this Law, the competent insurance regulatory body shall punish it according to the provisions of Article 161 through Article 172 respectively. For its directly liable person in charge or any other directly liable person, the competent insurance regulatory body shall admonish him or her and impose a fine of 10,000 yuan up to 100,000 yuan upon him or her; and, if the circumstances are serious, cancel his or her post-holding qualification or practicing qualification.

Article 174 Where an individual insurance agent violates this Law, the competent insurance regulatory body shall admonish him or her and may impose a fine of not more than 20,000 yuan upon him or her; or if the circumstances are serious, impose a fine of 20,000 yuan up to 100,000 yuan upon him or her and may revoke his or her qualification certificate.

Where a person who has not obtained the legal qualification carries out the individual insurance agency business, the competent insurance regulatory body shall admonish him or her and may impose a fine of not more than 20,000 yuan upon him or her; or if the circumstances are serious, impose a fine of 20,000 yuan up to 100,000 yuan upon him or her.

Article 175 Where a foreign insurance institution forms a representative office within the territory of the People's Republic of China without the approval of the insurance regulatory body under the State Council, the insurance regulatory body under the State Council shall ban the office and impose a fine of 50,000 yuan up to 300,000 yuan upon the foreign insurance institution.

Where a foreign insurance institution's representative office in the people's republic of China carries out any insurance operating activity, the competent insurance regulatory body shall order it to make correction, confiscate the illegal gains and impose a fine of not less than the amount of but not more than five times the illegal gains upon it; if there are no illegal gains or the amount of illegal gains is less than 200,000 yuan, shall impose a fine of 200,000 yuan up to 1 million yuan upon it; may order it to replace its chief representative; and, if the circumstances are serious, shall cancel the representative office.

Article 176 An insurance applicant, insurant or beneficiary who commits any of the following conduct for the purpose of insurance fraud shall be subject to administrative punishment if no crime is constituted:

1. intentionally fabricating by an insurance applicant a subject matter insured to swindle insurance money;
2. fabricating an insured incident which has never occurred, fabricating the cause of an insured incident or exaggerating the degree of damage caused by an insured incident to swindle insurance money; or
3. intentionally making an insured incident to swindle insurance money.

An authenticator, assessor or certifier of an insured incident who intentionally provides any false certificate for an insurance applicant, insurant or beneficiary to commit an insurance fraud shall be punished according to the preceding paragraph.

Article 177 Whoever violates this Law and causes damage to others shall be subject to civil liability.

Article 178 Whoever refuses or obstructs the supervisory inspection or investigation performed by an insurance regulatory body or its staff according to law shall be subject to a punishment in public security administration if no violence or threat is used.

Article 179 Where a law or administrative regulation is violated and the circumstances are serious, the insurance regulatory body under the State Council may forbid the relevant liable persons from practicing in the insurance sector within a prescribed time limit or even for a lifetime.

Article 180 Where any staff member of an insurance regulatory body who undertakes the

supervision and administration work commits any of the following conduct, he or she shall be sanctioned according to law:

1. approving the formation of any institution in violation of the relevant provisions;
2. examining and approving insurance clauses or premium rates in violation of the relevant provisions;
3. making spot inspections in violation of the relevant provisions;
4. inquiring about accounts or freezing funds in violation of the relevant provisions;
5. disclosing any trade secret of a relevant entity or individual which he or she has access to;
6. enforcing any administrative punishment in violation of the relevant provisions; or
7. any other conduct of abusing power or neglecting duties.

Article 181 Whoever violates this Law shall be subject to criminal liability if a crime is constituted.

Chapter VIII Supplementary Provisions

Article 182 Insurance companies shall join in the Insurance Association of China. Insurance agents, insurance brokers and insurance assessment institution may also join in the Insurance Association of China.

The Insurance Association of China shall be a self-regulatory organization for the insurance sector and a social group legal person.

Article 183 The commercial insurance businesses operated by legally established insurance organizations other than insurance companies shall be governed by this Law.

Article 184 Marine insurance shall be governed by the relevant provisions of the Maritime Law of the People's Republic of China; where the Maritime Law of the People's Republic of China is silent, the relevant provisions of this Law shall apply.

Article 185 Chinese-foreign joint venture insurance companies, wholly foreign-owned insurance companies and subsidiary companies of foreign insurance companies shall be governed by this Law; except as otherwise provided for by laws and administrative regulations.

Article 186 The state shall support the development of insurance business which serves the agricultural production. Agricultural insurance shall be provided for separately by laws and administrative regulations.

For compulsory insurance, where laws and administrative regulations provide otherwise, such provisions shall apply.

Article 187 This Law shall come into force on October 1, 2009.



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