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### **Insurance Law of the People's Republic of China(Revision 2015)**

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First Revision pursuant to the Decision on Revision of the "Insurance Law of the People's Republic of China" at the 30th Session of the Standing Committee of the Ninth National People's Congress on 28 October 2002

Revised pursuant to the Seventh Session of the Standing Committee of the Eleventh National People's Congress on 28 February 2009

Second Revision pursuant to the Decision on Revision of Five Laws Including the "Insurance Law of the People's Republic of China" at the Tenth Session of the Standing Committee of the Twelfth National People's Congress on 31 August 2014

Third Revision pursuant to the Decision on Revision of Five Laws Including the "Metrology Law of the People's Republic of China" at the 14th Session of the Standing Committee of the Twelfth National People's Congress on 24 April 2015 )

#### **CHAPTER 1 GENERAL PRINCIPLES**

**Article 1** This Law is formulated for the purposes of standardising insurance activities, protecting the legitimate rights and interests of parties concerned in insurance activities, strengthening supervision and administration of insurance industry, safeguarding economic and social order and social and public interests, and promoting healthy development of insurance industry.

**Article 2** Insurance referred to in this Law shall mean a commercial insurance act where a policyholder pays premium to an insurer pursuant to contractual provisions, and the insurer is liable to make compensation of insurance monies for property loss resulting from the occurrence of an insured event stipulated in the contract, or to pay insurance monies when the insured party is dead, injured or disabled, falls ill or attains the age stipulated in the contract or upon the deadline stipulated in the contract.

**Article 3** This Law shall apply to insurance activities undertaken in the People's Republic of China.

**Article 4** Persons engaging in insurance activities shall comply with laws and administrative regulations, respect social ethics, and shall not harm social and public interests.

**Article 5** Parties concerned in insurance activities shall comply with the principle of honesty and trustworthiness in exercise of rights and performance of obligations.

**Article 6** Insurance business shall be operated by insurance companies established pursuant to this Law and other insurance organisations stipulated by laws and administrative regulations; no other organisations or individuals shall operate insurance business.

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**Article 7** Legal persons and other organisations which need to take up domestic insurance in the People's Republic of China shall take up insurance with an insurance company in the People's Republic of China.

**Article 8** Unless otherwise stipulated by the State, separate operations of industries and administration of separate industries shall be implemented for insurance industry and banking industry, securities industry and trust industry; and insurance companies shall be separately established from banking, securities or trust business organisations.

**Article 9** The insurance regulatory department of the State Council shall carry out supervision and administration of insurance industry pursuant to the law.

The insurance regulatory department of the State Council shall establish branches according to the needs for performance of duties. The branches shall perform supervision and administration duties as authorised by the insurance regulatory department of the State Council.

## **CHAPTER 2 INSURANCE CONTRACTS**

### **Section 1 General Provisions**

**Article 10** An insurance contract is an agreement between a policyholder and an insurer on insurance rights and obligations.

A policyholder shall mean a person who has entered into an insurance contract with an insurer and who has the obligation to pay premiums pursuant to contractual provisions.

An insurer shall mean an insurance company which has entered into an insurance contract with a policyholder and which is liable to make compensation or pays insurance monies pursuant to contractual provisions.

**Article 11** Conclusion of an insurance contract shall be subject to negotiation and agreement, and the rights and obligations of the parties shall be determined pursuant to the principle of fairness.

Except where insurance is stipulated by laws and administrative regulations, the conclusion of an insurance contract shall be voluntary.

**Article 12** A life insurance policyholder shall, at the time of conclusion of the insurance contract, have insurance interests in the insured party.

An insured party in a property insurance policy shall, at the time of occurrence of an insured event, have insurance interests in the subject matter of insurance.

The subject matter of insurance of a life insurance policy is the life expectancy and physical body of a human being.

The subject matter of insurance of a property insurance policy is the property and its relevant interests.

An insured party shall mean a person whose property or body is assured under an insurance contract and who has the right to make insurance claims. The policyholder may be the insured party.

Insurance interests shall mean the interests of a policyholder or an insured party in the subject matter of insurance recognised by the law.

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**Article 13** When a policyholder makes a request for insurance and an insurer agrees to underwrite, an insurance contract is concluded. The insurer shall promptly issue an insurance policy document or any other insurance certificate to the policyholder.

An insurance policy document or any other insurance certificate shall state the contents of the contract agreed between both parties concerned. The parties concerned may also agree on adopting any other written format to state the contents of the contract.

An insurance contract duly concluded pursuant to the law shall take effect upon conclusion. The policyholder and the insurer may agree on terms and conditions or deadline for the validity of the contract.

**Article 14** Upon conclusion of an insurance contract, the policyholder shall pay premiums pursuant to contractual provisions, and the insurer shall bear insurance liabilities with effect from the agreed date.

**Article 15** Unless otherwise stipulated in this Law or otherwise agreed in an insurance contract, upon conclusion of the insurance contract, the policyholder may rescind the contract but the insurer shall not rescind the contract.

**Article 16** Where an insurer makes enquiries on the subject matter of insurance or the relevant information of the insured party for the purpose of conclusion of an insurance contract, the policyholder shall provide truthful information.

Where the policyholder failed to perform the obligation of providing truthful information as stipulated in the aforesaid paragraph intentionally or due to gross negligence, thus affecting the insurer's decision on underwriting or increase of premium rate, the insurer shall have the right to rescind the contract.

The right to rescind the contract stipulated in the preceding paragraph shall commence on the date on which the insurer becomes aware of the trigger event for rescission and shall extinguish if the right is not exercised more than 30 days. An insurer shall not rescind a contract if a two-year period has lapsed since conclusion of the contract; upon occurrence of an insured event, the insurer shall be liable to make compensation or payment of insurance monies.

Where a policyholder failed to perform the obligation of providing truthful information intentionally, the insurer shall not be liable to make compensation or payment of insurance monies for an insured event which has occurred before rescission of the contract, and the premium shall not be refunded.

Where a policyholder failed to perform the obligation to provide truthful information due to gross negligence which has a serious impact on the occurrence of an insured event, the insurer shall not be liable to make compensation or payment of insurance monies for the insured event which has occurred before rescission of the contract, but the premium shall be refunded.

Where an insurer is aware, at the time of conclusion of the contract, that the policyholder has not provided truthful information, the insurer shall not rescind the contract; upon occurrence of an insured event, the insurer shall be liable to make compensation or payment of insurance monies.

An insured event shall mean an event covered by the scope of insurance liabilities as agreed in an insurance contract.

**Article 17** Where the standard clauses provided by an insurer are adopted for conclusion of an insurance contract, the insurer shall attach the standard clauses to the insurance application form provided to the policyholder, and the insurer shall explain the contents of the contract to the policyholder.

An insurer shall highlight clauses in an insurance contract which excludes the liability of the insurer in the insurance application form, insurance policy document or any other insurance certificate to the attention of the policyholder, and make an explicit explanation in writing or verbally to the policyholder in respect of the

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contents of such clauses; where there is no highlighting or explicit explanation, such clauses shall be invalid.

**Article 18** An insurance contract shall include the following matters:

- (1) name and address of the insurer;
- (2) name and address of the policyholder and the insured party, and name and address of the beneficiary of a life insurance;
- (3) subject matter of insurance;
- (4) insurance liabilities and exclusion of liability;
- (5) insurance period and date of commencement of insurance liabilities;
- (6) insurance amount;
- (7) premium and payment method;
- (8) method of compensation or payment of insurance monies;
- (9) default liability and dispute resolution;
- (10) date of conclusion of the contract (yy/mm/dd).

The policyholder and the insurer may agree on other matters pertaining to the insurance.

A beneficiary shall mean a person who is designated by the insured party or the policyholder in a life insurance contract to have the right to make insurance claims. The policyholder or the insured party may be the beneficiary.

An insurance amount shall mean the maximum amount of insurance monies compensated or payable by an insurer to which the insurer is liable.

**Article 19** The following clauses in an insurance contract concluded by adopting the standard clauses provided by an insurer shall be invalid:

- (1) exclusion of the insurer's liability to bear obligations pursuant to the law or placing extra liability on the policyholder and the insured party; and
- (2) exclusion of the rights lawfully enjoyed by the policyholder and the insured party or the beneficiary.

**Article 20** The policyholder and the insurer may negotiate on amendments to the contents of the contract.

For amendments to an insurance contract, the insurer shall insert a remark on the insurance policy document or any other insurance certificate or attach a rider thereto, or the policyholder and the insurer shall enter into a written agreement on the amendments.

**Article 21** The policyholder, the insured party or the beneficiary shall promptly notify the insurer upon becoming aware of the occurrence of an insured event. Where the nature, reason, extent of damages, etc, of the insured event are unascertainable due to the failure of the policyholder, the insured party or the beneficiary to give prompt notification intentionally or due to gross negligence, the insurer shall not be

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liable to make compensation or payment of insurance monies for the part which is unascertainable, except where the insurer becomes aware or should be aware of the occurrence of the insured event promptly through any other channel.

**Article 22** Upon occurrence of an insured event, the policyholder, the insured party or the beneficiary shall, at the time of making a claim for compensation or payment of insurance monies pursuant to the insurance contract, endeavour to provide the relevant proof and materials for ascertaining the nature, reason, extent of damages, etc, of the insured event to the insurer.

Where the insurer, pursuant to contractual provisions, holds the view that the relevant proof and materials are incomplete, it shall promptly notify the policyholder, the insured party or the beneficiary in a one-off manner to provide the supplementary proof and materials.

**Article 23** Upon receipt of a claim from the insured party or the beneficiary for compensation or payment of insurance monies, the insurer shall promptly make an assessment; where the case is complex, the assessment shall be made within 30 days, unless otherwise stipulated in the contract. The insurer shall notify the insured party or the beneficiary of the assessment outcome; where the claim falls under insurance liabilities, the insurer shall perform the obligation of compensation or payment of insurance monies within 10 days from reaching an agreement with the insured party or the beneficiary on compensation or payment of insurance monies. Where the insurance contract stipulates the deadline for compensation or payment of insurance monies, the insurer shall perform the obligation of compensation or payment of insurance monies pursuant to contractual provisions.

Where the insurer failed to perform the obligation stipulated in the preceding paragraph promptly, the insurer shall, in addition to payment of insurance monies, compensate the insured party or the beneficiary for losses incurred therefrom.

No organisation or individual shall illegally interfere with the performance of obligation of compensation or payment of insurance monies by an insurer, or restrict the rights of an insured party or a beneficiary to obtain insurance monies.

**Article 24** Upon making an assessment pursuant to the provisions of Article 23 of this Law, if the claim does not fall under insurance liabilities, an insurer shall issue a notice to the insured party or the beneficiary in respect of refusal to make compensation or refusal to pay insurance monies within three days from the date of making the assessment, and state the reason.

**Article 25** Where an insurer is unable to ascertain the amount of compensation or payment of insurance monies within 60 days from the date of receipt of a claim for compensation or payment of insurance monies and the relevant proof and materials, the insurer shall make payment first based on the amount ascertainable pursuant to the available proof and materials; the insurer shall pay the corresponding balance upon final ascertainment of the amount of compensation or payment of insurance monies.

**Article 26** The limitation of action period in respect of a claim for compensation or payment of insurance monies by the insured party or the beneficiary of a non-life insurance policy from the insurer shall be two years, commencing from the date on which it becomes aware or should be aware of the occurrence of the insured event.

The limitation of action period in respect of a claim for payment of insurance monies by the insured party or the beneficiary of a life insurance policy from the insurer shall be five years, commencing from the date on which it becomes aware or should be aware of the occurrence of the insured event.

**Article 27** Where an insured event has not occurred but the insured party or the beneficiary claimed falsely that an insured event has occurred and made a claim for compensation or payment of insurance monies to the insurer, the insurer shall have the right to rescind the contract, and the premium shall not be refunded.

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Where the policyholder or the insured party intentionally creates an insured event, the insurer shall have the right to rescind the contract, and shall not be liable to make compensation or payment of insurance monies; except where stipulated in Article 43 of this Law, the premium shall not be refunded.

Upon occurrence of an insured event, where the policyholder, the insured party or the beneficiary fabricates a false reason for the event or exaggerates the extent of damages using forged or altered proof or materials or other evidence, the insurer shall not be liable to make compensation or payment of insurance monies for the fabricated part of the claim.

Where the policyholder, the insured party or the beneficiary has committed any of the acts stipulated in the three preceding paragraphs and resulted in payment of insurance monies or expenses by the insurer, the policyholder, the insured party or the beneficiary shall return the monies or make compensation.

**Article 28** Reinsurance is the transfer of insurance business undertaken by an insurer to another insurer in the form of cede insurance.

The ceding insurer shall, at the request of the reinsurer, notify the reinsurer in writing of the relevant information pertaining to the liability borne by the ceding insurer and the original insurance.

**Article 29** The reinsurer shall not request the policyholder of the original insurance policy to pay premium.

The insured party or the beneficiary of the original insurance policy shall not make a claim for compensation or payment of insurance monies from the reinsurer.

The ceding insurer shall not cite the reason of non-performance of reinsurance liability by the reinsurer to refuse to perform or delay performance of the original insurance liabilities.

**Article 30** Where there is a dispute over a contract clause between an insurer and the policyholder, the insured party or the beneficiary of an insurance contract concluded by adopting the standard clauses provided by the insurer, interpretation shall be made using normal reasoning. Where there are two or more interpretations of the contract clause, the People's Court or arbitration agency shall adopt the interpretation which is in the interest of the insured party and the beneficiary.

## **Section 2 Life Insurance Contracts**

**Article 31** A policyholder shall have insurance interests in the following persons:

- (1) himself/herself;
- (2) his/her spouse, child(ren) and parents;
- (3) family members and immediate relatives other than those listed in the preceding items who have a custody, alimony or support relationship with the policyholder; and
- (4) an employee which has a labour relationship with the policyholder.

Except as stipulated in the preceding paragraph, where an insured party agrees to the conclusion of an insurance contract by the policyholder for the insured party, the policyholder shall be deemed to have insurance interests in the insured party.

Where the policyholder has no insurance interests in an insured party at the time of conclusion of an insurance contract, the contract shall be invalid.

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**Article 32** Where the age of the insured party declared by the policyholder is inconsistent with the actual age of the insured party, and the actual age of the insured party does not comply with the age restriction stipulated in the contract, the insurer may rescind the contract, and refund the cash value of the insurance policy document pursuant to contractual provisions. The provisions of the third paragraph and sixth paragraph of Article 16 of this Law shall apply to the insurer's exercise of right to rescind the contract.

Where the age of the insured party declared by the policyholder is inconsistent with the actual age of the insured party, causing the premium paid by the policyholder to be less than the premium payable according to the actual age, the insurer shall have the right to rectify and require the policyholder to top up the difference, or pay insurance monies according to the ratio of premium actually paid to premium payable at the time of payment.

Where the age of the insured party declared by the policyholder is inconsistent with the actual age of the insured party, causing the premium paid by the policyholder to be more than the premium payable according to the actual age, the insurer shall return the overpaid portion of the premium to the policyholder.

**Article 33** A policyholder shall not take up a life insurance policy under which insurance monies are payable upon death of the insured party for a person without capacity for civil conduct, and an insurer shall not underwrite such life insurance policy.

The restrictions stipulated in the aforesaid paragraph shall not apply to life insurance policies taken up by parents for their underage child(ren). However, the aggregate amount of insurance monies payable upon death of the insured party shall not exceed the ceiling amount stipulated by the insurance regulatory department of the State Council.

**Article 34** An insurance contract under which insurance monies are payable upon death of the insured party shall be invalid if the insurance amount is not agreed and endorsed by the insured party.

Insurance policy documents issued for an insurance contract under which insurance monies are payable upon death of the insured party shall not be transferred or pledged without the written consent of the insured party.

The restrictions stipulated in the first paragraph of this Article shall not apply to life insurance policies taken up by parents for their underage child(ren).

**Article 35** A policyholder may pay all premiums in a one-off manner or pay premiums by instalments to the insurer pursuant to contractual provisions.

**Article 36** In the case of payment of premiums by instalments as agreed in the contract, unless otherwise agreed in the contract, where the policyholder, after payment of the first instalment of premiums, failed to pay the premium for the current period after 30 days from the date of payment reminder from the insurer, or failed to pay the premium for the current period after 60 days from the agreed deadline, the contract shall become suspended, or the insurer shall reduce the insurance amount pursuant to the terms and conditions agreed in the contract.

Where an insured event has occurred within the period stipulated in the preceding paragraph, the insurer shall pay insurance monies pursuant to contractual provisions, but it may deduct the premiums in arrears.

**Article 37** Where a contract is suspended pursuant to the provisions of Article 36 of this Law, the validity of the contract shall resume upon negotiation and agreement between the insurer and the policyholder and back payment of the premiums by the policyholder. However, where both parties do not reach an agreement after a two-year period has lapsed since suspension of the contract, the insurer shall have the right to rescind the contract.

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Where the insurer has rescinded the contract pursuant to the provisions of the preceding paragraph, the cash value of the insurance policy document shall be refunded pursuant to contractual provisions.

**Article 38** An insurer shall not use litigation measures to request for payment of premiums of a life insurance policy by the policyholder.

**Article 39** The beneficiary of a life insurance policy shall be designated by the insured party or the policyholder.

The appointment of a beneficiary by a policyholder shall be subject to consent of the insured party. A policyholder who takes up life insurance for his/her employee having a labour relationship with the policyholder shall not designate any person other than the insured party and his/her immediate relatives as the beneficiary.

Where an insured party is a person without capacity for civil conduct or with limited capacity for civil conduct, his/her guardian may designate the beneficiary.

**Article 40** The insured party or the policyholder may designate one or several persons as the beneficiary(ies).

Where there are several beneficiaries, the insured party or the policyholder may determine the sequential order of the beneficiaries and the share for each beneficiary; where the share for each beneficiary is not determined, the beneficiaries shall be entitled to beneficial rights in equal share.

**Article 41** The insured party or the policyholder may change the beneficiary(ies) and notify the insurer in writing. Upon receipt of the written notification for change of beneficiary(ies), the insurer shall insert a remark on the insurance policy document or any other insurance certificate or attach a rider thereto.

The policyholder shall obtain the consent of the insured party for the change of beneficiary(ies).

**Article 42** Under any of the following circumstances following the death of the insured party, the insurance monies shall form part of the insured party's estate, and the insurer shall perform the obligation of payment of insurance monies pursuant to the provisions of the Inheritance Law of the People's Republic of China:

- (1) no beneficiary is designated or the designation of beneficiary(ies) is unclear and cannot be ascertained;
- (2) the beneficiary is survived by the insured party, and there is no other beneficiary; or
- (3) the beneficiary has lost or waived his/her beneficial rights and there is no other beneficiary.

Where the beneficiary and the insured party passed away in the same event, and the sequential order of death cannot be determined, the death of the beneficiary shall be assumed to precede the death of the insured party.

**Article 43** Where the policyholder intentionally causes the death, injury or disability or illness of the insured party, the insurer shall not be liable to make payment of insurance monies. Where the policyholder has paid premiums for more than two years, the insurer shall refund the cash value of the insurance policy document to other rights holder(s) pursuant to contractual provisions.

Where the beneficiary intentionally causes the death, injury or disability or illness of the insured party, or makes an attempt to kill the insured party but the attempt is unsuccessful, the beneficiary shall lose his/her beneficial rights.



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**Article 44** Where the insured party of an insurance contract under which insurance monies are payable upon death of the insured party commits suicide within two years from the date of conclusion of the contract or resumption of the validity of the contract, the insurer shall not be liable to make payment of insurance monies, except where the insured party is a person without capacity for civil conduct at the time of committing suicide.

Where the insurer is not liable to make payment of insurance monies pursuant to the provisions of the preceding paragraph, the cash value of the insurance policy document shall be refunded pursuant to contractual provisions.

**Article 45** Where an insured party is injured or disabled or killed due to his/her intentional criminal act or refusal of mandatory criminal measures adopted pursuant to the law, the insurer shall not be liable to make payment of insurance monies. Where the policyholder has paid premiums for more than two years, the insurer shall refund the cash value of the insurance policy document pursuant to contractual provisions.

**Article 46** Where an insured event such as the death, injury or disability or illness, etc, of an insured party is caused by the action of a third party, the insurer shall, upon payment of insurance monies to the insured party or the beneficiary, not have the right of recourse against the third party, but the insured party or the beneficiary shall have the right to claim for compensation by the third party.

**Article 47** Where a policyholder has rescinded a contract, the insurer shall refund the cash value of the insurance policy document pursuant to contractual provisions within 30 days from the date of receipt of notice of rescission of contract.

### **Section 3 Property Insurance Contracts**

**Article 48** Where an insured party does not have insurance interests in the subject matter of insurance at the time of occurrence of an insured event, it shall not claim for compensation of insurance monies from the insurer.

**Article 49** In the event of transfer of the subject matter of insurance, the transferee of the subject matter of insurance shall succeed the rights and obligations of the insured party.

In the event of transfer of the subject matter of insurance, the insured party or the transferee shall promptly notify the insurer, except for freight insurance contracts and contracts which provide otherwise.

Where the transfer of the subject matter of insurance results in significant increase in the extent of danger, the insurer may increase premium or rescind the contract pursuant to contractual provisions within 30 days from the date of receipt of the notice stipulated in the preceding paragraph. Where the insurer opts to rescind the contract, it shall refund to the policyholder the balance after deducting the portion payable for the period from the date of commencement of insurance liabilities to the date of rescission of contract from the premiums collected pursuant to contractual provisions.

Where the insured party or the transferee failed to perform the notification obligation stipulated in the second paragraph of this Article and an insured event has occurred due to significant increase in the extent of danger of the subject matter of insurance, the insurer shall not be liable to make compensation of insurance monies.

**Article 50** Upon commencement of insurance liabilities for a freight insurance contract and transportation vehicle voyage insurance contract, the parties concerned in the contract shall not rescind the contract.

**Article 51** An insured party shall comply with the provisions of the State on fire services, safety, manufacturing and operation, labour protection, etc, and safeguard the safety of the subject matter of insurance.

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An insurer may inspect the safety conditions of the subject matter of insurance pursuant to contractual provisions, and promptly propose recommendations in writing to the policyholder or the insured party on elimination of safety threat and hidden danger.

Where the policyholder or the insured party failed to fulfil his/her/its responsibilities in respect of the safety of the subject matter of insurance pursuant to contractual provisions, the insurer shall have the right to increase premium or rescind the contract.

The insurer may, upon obtaining the consent of the insured party, adopt safety precautionary measures to safeguard the safety of the subject matter of insurance.

**Article 52** Where there is a significant increase in the extent of danger of the subject matter of insurance during the validity period of the contract, the insured party shall promptly notify the insurer pursuant to contractual provisions, and the insurer may increase premium or rescind the contract pursuant to contractual provisions. Where the insurer opts to rescind the contract, it shall refund to the policyholder the balance after deducting the portion payable for the period from the date of commencement of insurance liabilities to the date of rescission of contract from the premiums collected pursuant to contractual provisions.

Where the insured party failed to perform the notification obligation stipulated in the preceding paragraph, and an insured event has occurred due to significant increase in the extent of danger of the subject matter of insurance, the insurer shall not be liable to make compensation of insurance monies.

**Article 53** Under any of the following circumstances, unless otherwise agreed in the contract, the insurer shall reduce the premium and refund the corresponding premium computed on a daily basis:

(1) there is a change in the relevant circumstances where the determination of the premium rate is based, and the extent of danger of the subject matter of insurance has evidently lowered; or

(2) the insured value of the subject matter of insurance has evidently reduced.

**Article 54** Where a policyholder requests for rescission of contract prior to commencement of insurance liabilities, the policyholder shall pay handling fee to the insurer pursuant to contractual provisions, and the insurer shall refund the premium. Where a policyholder requests for rescission of contract after commencement of insurance liabilities, the insurer shall refund to the policyholder the balance after deducting the portion payable for the period from the date of commencement of insurance liabilities to the date of rescission of contract from the premiums collected pursuant to contractual provisions.

**Article 55** Where a policyholder and an insurer have agreed on and state the insured value of the subject matter of insurance in the contract, compensation shall be computed on the basis of the agreed insured value when the subject matter of insurance incurs losses.

Where a policyholder and an insurer have not agreed on the insured value of the subject matter of insurance, compensation shall be computed on the basis of the actual value of the subject matter of insurance at the time of occurrence of the insured event when the subject matter of insurance incurs losses.

The insurance amount shall not exceed the insured value. Where the insurance amount exceeds the insured value, the excess portion shall be invalid, and the insurer shall refund the corresponding premium.

Where the insurance amount is less than the insured value, unless otherwise agreed in the contract, the insurer shall be liable to make compensation of insurance monies according to the ratio of the insurance amount to the insured value.

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**Article 56** A policyholder of duplicate insurance shall notify the respective insurers of the relevant information pertaining to the duplicate insurance.

The aggregate compensation of insurance monies of all the insurers of duplicate insurance shall not exceed the insured value. Unless otherwise agreed in the contract, each insurer shall be liable to make compensation of insurance monies according to the ratio of its insurance amount to the aggregate insurance amount.

A policyholder of duplicate insurance may require each insurer to refund the premium according to the ratio in respect of the portion of aggregate insurance amount which exceeds the insured value.

Duplicate insurance shall mean an insurance in which a policyholder has concluded insurance contracts with two or more insurers for the same subject matter of insurance, the same insurance interests and the same insured event(s), and the aggregate insurance amount exceeds the insured value.

**Article 57** The insured party shall, at the time of occurrence of an insured event, endeavour to adopt the necessary measures to prevent or reduce losses.

Upon occurrence of an insured event, the insurer shall bear the necessary and reasonable expenses incurred by the insured party for prevention or reduction of losses of the subject matter of insurance; the amount of expenses borne by the insurer shall be computed separately from the compensation amount for losses of the subject matter of insurance, but shall not exceed the insurance amount.

**Article 58** Where the subject matter of insurance suffers from partial losses, the policyholder may rescind the contract within 30 days from the date of making compensation by the insurer; unless otherwise agreed in the contract, the insurer may also rescind the contract but shall notify the policyholder 15 days in advance.

Where the contract is rescinded, the insurer shall refund to the policyholder the balance after deducting the portion payable for the period from the date of commencement of insurance liabilities to the date of rescission of contract from the premium in respect of the portion of the subject matter of insurance which has not suffered from losses pursuant to contractual provisions.

**Article 59** Upon occurrence of an insured event, where the insurer has paid the full insurance amount, and the insurance amount is equal to the insured value, all rights of the damaged subject matter of insurance shall belong to the insurer; where the insurance amount is less than the insured value, the insurer shall obtain partial rights of the damaged subject matter of insurance according to the ratio of the insurance amount to the insured value.

**Article 60** Where the occurrence of an insured event is due to damages to the subject matter of insurance made by a third party, the insurer shall, with effect from the date of making compensation of insurance monies to the insured party, exercise subrogation rights within the scope of the compensation amount to claim for compensation from the third party.

Upon occurrence of an insured event stipulated in the preceding paragraph, where the insured party has obtained damage compensation from the third party, the insurer may, at the time of making compensation of insurance monies, correspondingly deduct the compensation amount obtained by the insured party from the third party.

The insurer's exercise of subrogation rights to claim for compensation pursuant to the provisions of the first paragraph of this Article shall not affect the rights of the insured party to claim for compensation from the third party in respect of the uncompensated portion.

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**Article 61** Upon occurrence of an insured event and prior to making compensation of insurance monies by the insurer, where the insured party waives its rights to claim for compensation from the third party, the insurer shall not be liable to make compensation of insurance monies.

After making compensation of insurance monies by the insurer to the insured party, where the insured party waives its rights to claim for compensation from the third party without obtaining the consent of the insurer, the act shall be invalid.

Where the insurer is unable to exercise subrogation rights to claim for compensation due to an intentional act or gross negligence of the insured party, the insurer may deduct or request for refund of the corresponding insurance monies.

**Article 62** Except for an insured event stipulated in the first paragraph of Article 60 of this Law which is caused intentionally by a family member of the insured party or its member, an insurer shall not exercise subrogation rights to claim for compensation from the family member of the insured party or its member.

**Article 63** Where an insurer exercises subrogation rights to claim for compensation from a third party, the insured party shall provide the requisite documents and the relevant information that it becomes aware to the insurer.

**Article 64** The necessary and reasonable expenses incurred by the insurer or the insured party for investigation and determination of the nature and reason of the insured event and the extent of losses of the subject matter of insurance shall be borne by the insurer.

**Article 65** An insurer may make compensation of insurance monies to a third party directly for damages caused by an insured party of a liability insurance policy to the third party pursuant to the provisions of the law or contractual provisions.

An insurer shall, at the request of an insured party, make direct compensation of insurance monies to a third party for damages caused by the insured party of a liability insurance policy to the third party in the event that the compensation liability of the insured party towards the third party is determined. Where the insured party does not make the request, the third party shall have the right to directly request that the insurer makes compensation of insurance monies in respect of the portion of the compensation it should receive.

Where an insured party of a liability insurance policy causes a third party to suffer from damages and the insured party has not made compensation to the third party, the insurer shall not make compensation of insurance monies to the insured party.

Liability insurance shall mean an insurance policy under which the subject matter of insurance is the compensation liability to be borne by the insured party towards a third party pursuant to the law.

**Article 66** Where an arbitration case or lawsuit is filed in respect of an insured event under which the insured party of a liability insurance policy causes a third party to suffer from damages, unless otherwise agreed in the contract, the insurer shall bear the arbitration or litigation expenses and other necessary and reasonable expenses paid by the insured party.

### **CHAPTER 3 INSURANCE COMPANIES**

**Article 67** Establishment of an insurance company shall be subject to approval of the insurance regulatory department of the State Council.

When the insurance regulatory department of the State Council examines an application for establishment of an insurance company, it shall take into account the needs for development of the insurance industry and fair competition therein.

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**Article 68** Establishment of an insurance company shall satisfy the following criteria:

- (1) the key shareholders shall have continuing profitability, good reputation, shall not have a record of major violation of law or regulation during the past three years, and shall have a net asset of not less than RMB200 million;
- (2) the articles of association of the insurance company shall comply with the provisions of this Law and the Company Law of the People's Republic of China;
- (3) the registered capital of the insurance company shall comply with the provisions of this Law;
- (4) the directors, supervisors and senior management personnel shall possess the professional knowledge and business and work experience for their appointment;
- (5) the insurance company shall have a proper organisational structure and management system;
- (6) the business premises and other facilities relating to business operations of the insurance company shall comply with the requirements; and
- (7) the insurance company shall satisfy any other criteria stipulated by the laws, administrative regulations and the insurance regulatory department of the State Council.

**Article 69** The minimum registered capital requirement for establishment of an insurance company shall be RMB200 million.

The insurance regulatory department of the State Council may adjust the minimum registered capital requirement of an insurance company based on its scope of business and scale of business, provided that the adjusted requirement shall not be lower than the amount stipulated in the first paragraph of this Article.

The registered capital of an insurance company shall be fully paid up in cash.

**Article 70** An application in writing and the following materials shall be submitted to the insurance regulatory department of the State Council for application for establishment of an insurance company:

- (1) an application form for establishment, the application form shall state the name, registered capital, scope of business, etc, of the insurance company proposed to be established;
- (2) a feasibility study report;
- (3) a preparation proposal;
- (4) the business licence or other background information of the investor(s), and the financial accounting report of the preceding year audited by an accounting firm;
- (5) person-in-charge of the preparatory team endorsed by the investor(s) and name list of the proposed Chairman and managers and certificate of their acceptance of appointment; and
- (6) any other materials stipulated by the insurance regulatory department of the State Council.

**Article 71** The insurance regulatory department of the State Council shall examine the application for establishment of an insurance company, make a decision on approval or non-approval of preparatory work within six months from the date of acceptance of the application, and notify the applicant in writing. Where an application is not approved, the applicant shall be notified in writing of the reason.

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**Article 72** The applicant shall complete preparatory work within one year from the date of receipt of the notice on approval of preparatory work; no insurance business activities shall be undertaken during the preparatory period.

**Article 73** Upon completion of the preparatory work, an applicant who satisfies the establishment criteria stipulated in Article 68 of this Law may submit an application for business commencement to the insurance regulatory department of the State Council.

The insurance regulatory department of the State Council shall make a decision on approval or non-approval of business commencement within 60 days from the date of acceptance of the application for business commencement. Where the application is approved, an Insurance Business Permit shall be issued to the applicant; where the application is not approved, the applicant shall be notified in writing of the reason.

**Article 74** Establishment of a branch in the People's Republic of China by an insurance company shall be subject to approval of the insurance regulatory authorities.

A branch of an insurance company shall not qualify as a legal person and its civil liability shall be borne by the insurance company.

**Article 75** An application in writing and the following materials shall be submitted to the insurance regulatory authorities for application for establishment of a branch by an insurance company:

(1) an application form for establishment;

(2) business development plan and market analysis materials of the proposed organisation for the next three years;

(3) curriculum vitae of proposed candidates for senior management personnel and the relevant proof materials; and

(4) any other materials stipulated by the insurance regulatory department of the State Council.

**Article 76** The insurance regulatory authorities shall examine an application for establishment of a branch of an insurance company and make a decision on approval or non-approval within 60 days from the date of acceptance of the application. Where the application is approved, an Insurance Business Permit shall be issued to the branch; where the application is not approved, the applicant shall be notified in writing of the reason.

**Article 77** An insurance company and its branch(es) which have been approved for establishment shall present their Insurance Business Permit to process registration formalities with the administration for industry and commerce and obtain their business licence.

**Article 78** Where an insurance company and its branch(es) failed to process registration formalities with the administration for industry and commerce within six months from the date of obtaining their Insurance Business Permit without a proper reason, their Insurance Business Permit shall become void.

**Article 79** An insurance company proposing to establish a subsidiary or branch outside the People's Republic of China shall obtain approval of the insurance regulatory department of the State Council.

**Article 80** Establishment of representative offices in the People's Republic of China by foreign insurance organisations shall be subject to approval of the insurance regulatory department of the State Council. Representative offices shall not engage in insurance business activities.

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**Article 81** The directors, supervisors and senior management personnel of an insurance company shall have good moral character, be familiar with insurance-related laws and administrative regulations, possess the business management ability required for performance of duties, and have obtained the appointment qualifications verified by the insurance regulatory authorities before taking up their appointment.

The scope of senior management personnel of an insurance company shall be stipulated by the insurance regulatory department of the State Council.

**Article 82** The following persons who fall under any of the descriptions stipulated in Article 146 of the Company Law of the People's Republic of China or any of the following descriptions shall not act as directors, supervisors or senior management personnel of an insurance company:

(1) a person whose appointment qualification for acting as a director, a supervisor or a member of the senior management personnel of a financial institution has been revoked by the financial regulatory authorities due to a violation of law or regulation committed by him/her and a five-year period has not elapsed since his/her appointment qualification was revoked;

(2) a person whose practising qualification as a lawyer, a certified public accountant or a professional of assets valuation organisation, certification body, etc, has been revoked due to a violation of law or regulation committed by him/her and a five-year period has not elapsed since his/her practising qualification was revoked.

**Article 83** Where a director, a supervisor or a member of the senior management personnel of an insurance company has violated the provisions of laws and administrative regulations or the articles of association of the company when he/she performs corporate duties and causes the company to suffer from losses, he/she shall be liable to make compensation.

**Article 84** Under any of the following circumstances, the insurance company shall obtain the approval of the insurance regulatory authorities:

(1) change of name;

(2) change of registered capital;

(3) change of business premises of the company or its branch;

(4) revocation of a branch;

(5) division or merger of the company;

(6) amendments to the articles of association of the company;

(7) change of shareholder whose capital contribution amount constitutes 5% or more of the total capital amount of a limited liability company, or change of shareholder who holds 5% or more of the shares of a company limited by shares; or

(8) any other circumstances stipulated by the insurance regulatory department of the State Council.

**Article 85** Insurance companies shall employ actuarial professionals and establish an actuarial reporting system and compliance reporting system.

**Article 86** Insurance companies shall submit the relevant reports, statements, documents and materials pursuant to the provisions of the insurance regulatory authorities.

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The solvency reports, financial accounting reports, actuarial reports, compliance reports and other relevant reports, statements, documents and materials of insurance companies shall record their insurance business matters truthfully and shall not contain false records, misrepresentations or major omissions.

**Article 87** Insurance companies shall keep complete accounts books, original accounts vouchers and relevant materials for business activities properly pursuant to the provisions of the insurance regulatory department of the State Council.

The accounts books, original accounts vouchers and relevant materials stipulated in the preceding paragraph shall be kept from the date of termination of an insurance contract and for a period of not less than five years if the insurance period is less than one year and for a period of not less than 10 years if the insurance period exceeds one year.

**Article 88** Appointment or termination of an intermediary service organisation such as an accounting firm, an assets valuation organisation, a credit rating organisation, etc, by an insurance company shall be reported to the insurance regulatory authorities; in the event of termination of an intermediary service organisation such as an accounting firm, an assets valuation organisation, a credit rating organisation, etc, the reason shall be stated.

**Article 89** Where an insurance company needs to be dissolved by reason of division or merger or the board of shareholders or the shareholders' meeting has passed a resolution on dissolution of the company or an event triggering dissolution of the company as stipulated in the articles of association of the company has occurred, the company shall be dissolved upon approval of the insurance regulatory department of the State Council.

An insurance company which engages in life insurance business shall not be dissolved unless due to division, merger or revocation pursuant to the law.

An insurance company which is dissolved shall set up a liquidation team pursuant to the law to carry out liquidation.

**Article 90** Upon obtaining the consent of the insurance regulatory department of the State Council, an insurance company which falls under the description stipulated in Article 2 of the Enterprise Bankruptcy Law of the People's Republic of China or its creditors may apply to a People's Court pursuant to the law for reorganisation, settlement or bankruptcy liquidation; the insurance regulatory department of the State Council may also apply to a People's Court pursuant to the law for reorganisation or bankruptcy liquidation of such insurance company.

**Article 91** Insolvency assets shall be applied for repayment in the following sequence after priority repayment of bankruptcy expenses and post-insolvency acceptance debts:

(1) wages and salaries and medical treatment, disability allowance and pension expenses owed to employees; the owed amount shall be transferred to the basic pension insurance and basic medical insurance premium in the employees' individual accounts; compensation payable to employees pursuant to the provisions of laws and administrative regulations;

(2) compensation or payment of insurance monies;

(3) social insurance premiums and taxes in arrears other than those stipulated in item (1) owed by the insurance company;

(4) ordinary insolvency claims.

Where the insolvency assets are insufficient to repay claims of the same ranking, pro rata distribution shall be made.



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The wages of the directors, supervisors and senior management personnel of a bankrupt insurance company shall be computed in accordance with the average wage of the company's employees.

**Article 92** Where an insurance company engaging in life insurance business is revoked or declared bankrupt pursuant to the law, the life insurance contracts and liability reserves it holds shall be transferred to another insurance company which engages in life insurance business; where the insurance company is unable to reach a transfer agreement with another insurance company, the insurance regulatory department of the State Council shall designate an insurance company which engages in life insurance business to accept the transfer.

In the event of transfer of life insurance contracts and liability reserves stipulated in the preceding paragraph or acceptance of transfer of life insurance contracts and liability reserves stipulated in the preceding paragraph which is designated by the insurance regulatory department of the State Council, the legitimate rights and interests of the insured parties and the beneficiaries shall be safeguarded.

**Article 93** An insurance company which terminates its business activities pursuant to the law shall cancel its Insurance Business Permit.

**Article 94** Unless otherwise stipulated in this Law, the provisions of the Company Law of the People's Republic of China shall apply to insurance companies.

#### **CHAPTER 4 INSURANCE BUSINESS RULES**

**Article 95** Scope of business of an insurance company:

(1) life insurance business, including insurance businesses such as life insurance, health insurance, accident insurance, etc;

(2) property insurance business, including insurance businesses such as property damage insurance, liability insurance, credit insurance, guarantee insurance, etc; and

(3) other insurance-related businesses approved by the insurance regulatory department of the State Council.

Insurers shall not concurrently engage in life insurance businesses and property insurance businesses. However, an insurance company which engages in property insurance businesses may, upon obtaining approval of the insurance regulatory department of the State Council, engage in short-term health insurance businesses and accident insurance businesses.

Insurance companies shall engage in insurance business activities within the scope of business approved by the insurance regulatory department of the State Council pursuant to the law.

**Article 96** Subject to approval of the insurance regulatory department of the State Council, an insurance company may engage in the following reinsurance businesses under the insurance businesses stipulated in Article 95 of this Law:

(1) cede out insurance; and

(2) cede in insurance.

**Article 97** Insurance companies shall make contributions to security deposit according to 20% of their total registered capital amount and deposit the sum into a bank designated by the insurance regulatory department of the State Council which shall not be used, except where the insurance companies use the sum for repayment of debts during liquidation of the company.

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**Article 98** Insurance companies shall make allocations to various liability reserves pursuant to the principles of safeguarding the interests of the insured parties and ensuring solvency.

The detailed measures for allocation and carrying forward of liability reserves by insurance companies shall be formulated by the insurance regulatory department of the State Council.

**Article 99** Insurance companies shall make allocations to provident fund pursuant to the law.

**Article 100** Insurance companies shall make contributions to the Insurance Protection Fund.

The Insurance Protection Fund shall be managed centrally and used in the following circumstances in a coordinated manner:

(1) to be used for providing relief to policyholders, insured parties or beneficiaries when an insurance company is revoked or declared bankrupt;

(2) to be used for providing relief to the insurance company which accepts its life insurance contracts pursuant to the law when an insurance company is revoked or declared bankrupt; and

(3) any other circumstances stipulated by the State Council.

The detailed measures for raising, management and use of the Insurance Protection Fund shall be formulated by the State Council.

**Article 101** Insurance companies shall possess the minimum solvency corresponding to their scale of business and extent of risks. The balance after deducting the admissible liabilities from the admissible assets of an insurance company shall not be less than the amount stipulated by the insurance regulatory department of the State Council; where the balance is less than the stipulated amount, the insurance company shall adopt the corresponding measures required by the insurance regulatory department of the State Council to attain the stipulated amount.

**Article 102** The premiums retained in the current year by an insurance company which engages in property insurance business shall not exceed four times the total of its actual capital funds and provident fund.

**Article 103** The liability borne by an insurance company for each risk unit, ie the liability borne for the scope of maximum losses that may result from an insured event, shall not exceed 10% of the total of its actual capital funds and provident fund; reinsurance shall be handled for the excess portion.

The differentiation of risk units by insurance companies shall comply with the provisions of the insurance regulatory department of the State Council.

**Article 104** The method for differentiation of risk units and arrangement scheme for catastrophic risks of an insurance company shall be filed with the insurance regulatory department of the State Council for record.

**Article 105** Insurance companies shall handle reinsurance pursuant to the provisions of the insurance regulatory department of the State Council, and carefully select reinsurers.

**Article 106** Fund application by insurance companies shall be sound and comply with the principle of security.

Fund application by insurance companies shall be limited to the following forms:

(1) bank deposits;

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- (2) sale and purchase of securities such as debentures, shares, securities investment fund units, etc;
  - (3) investment in immovables; and
  - (4) other forms of fund application stipulated by the State Council.

The detailed administrative measures on fund application by insurance companies shall be formulated by the insurance regulatory department of the State Council pursuant to the provisions of the two preceding paragraphs.

**Article 107** Subject to approval of the insurance regulatory department of the State Council jointly with the securities regulatory department of the State Council, an insurance company may establish an insurance assets management company.

Insurance assets management companies engaging in securities investment activities shall comply with the provisions of the Securities Law of the People's Republic of China and related laws and administrative regulations.

The administrative measures on insurance assets management companies shall be formulated by the insurance regulatory department of the State Council jointly with the relevant departments of the State Council.

**Article 108** Insurance companies shall establish a system for management of related party transactions and information disclosure pursuant to the provisions of the insurance regulatory department of the State Council.

**Article 109** The controlling shareholders, actual controlling parties, directors, supervisors or senior management personnel of an insurance company shall not make use of related party transactions to harm the interests of the company.

**Article 110** Insurance companies shall disclose financial accounting reports, risk management status, business status of insurance products and other significant matters truthfully, accurately and completely pursuant to the provisions of the insurance regulatory department of the State Council.

**Article 111** Insurance sales personnel of insurance companies shall have good moral conduct, possess professional competency required for insurance sales. The code of conduct and administrative measures for insurance sales personnel shall be stipulated by the insurance regulatory department of the State Council.

**Article 112** Insurance companies shall establish a registration and management system for insurance agents, strengthen training and management of insurance agents, and shall not instigate or induce insurance agents to commit breach of fiduciary duties.

**Article 113** Insurance companies and their branches shall use their Insurance Business Permit pursuant to the law, and shall not transfer, lease or lend their Insurance Business Permit.

**Article 114** Insurance companies shall draft insurance clauses and premium rates in a fair and reasonable manner pursuant to the provisions of the insurance regulatory department of the State Council, and shall not harm the legitimate rights and interests of policyholders, insured parties and beneficiaries.

Insurance companies shall promptly perform obligations of making compensation or payment of insurance monies pursuant to contractual provisions and the provisions of this Law.

**Article 115** Insurance companies shall comply with the principle of fair competition in launching their business activities and shall not engage in unfair competition.

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**Article 116** Insurance companies and their personnel shall not commit the following acts in insurance business activities:

- (1) defraud a policyholder, an insured party or a beneficiary;
- (2) conceal important information relating to an insurance contract from a policyholder;
- (3) hinder a policyholder from performing the obligation of providing truthful information as stipulated in this Law, or induce a policyholder not to perform the obligation of providing truthful information as stipulated in this Law;
- (4) give or commit to give a policyholder, an insured party or a beneficiary premium rebates or other benefits which are not stipulated in the insurance contract;
- (5) refuse to perform the obligation of making compensation or payment of insurance monies agreed in an insurance contract pursuant to the law;
- (6) intentionally fabricate a non-existent insured event, make up an insurance contract or intentionally exaggerate the extent of damages of an insured event which has actually occurred to process false claims, obtain insurance monies by defrauding or seek other improper gains;
- (7) misappropriate, intercept and encroach premiums;
- (8) entrust an organisation which has not obtained the legitimate qualification to engage in insurance sales activities;
- (9) make use of insurance businesses to seek improper gains for other organisations or individuals;
- (10) make use of insurance agents, insurance brokerages or insurance appraisal institutions to engage in illegal activities such as making up insurance intermediary businesses or fabricating cancellation of insurance, etc, to obtain monies;
- (11) fabricate or disseminate false information, etc, to harm the commercial reputation of competitors, or disrupt the order of insurance market through other unfair competition acts;
- (12) divulge commercial secrets of a policyholder or an insured party which have come to its knowledge in the course of business activities; or
- (13) violate laws and administrative regulations and commit any other acts stipulated by the insurance regulatory department of the State Council.

## **CHAPTER 5 INSURANCE AGENTS AND INSURANCE BROKERAGES**

**Article 117** An insurance agent is an organisation or individual that is entrusted by an insurer to handle insurance businesses within the scope authorised by the insurer and collects commissions from the insurer.

Insurance agencies include full-time insurance agencies that engage in insurance agency businesses exclusively and part-time insurance agencies that engage in insurance agency businesses on a part-time basis.

An insurance brokerage is an organisation that provides intermediary services for conclusion of an insurance contract between a policyholder and an insurer for the benefit of the policyholder, and collects commissions pursuant to the law.

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**Article 118** Insurance agencies and insurance brokerages shall satisfy the criteria stipulated by the insurance regulatory department of the State Council, and obtain an insurance agency business permit or insurance brokerage business permit issued by the insurance regulatory authorities.

**Article 119** Full-time insurance agencies and insurance brokerages shall present their permit issued by the insurance regulatory authorities to process registration formalities with the administration for industry and commerce and obtain a business licence.

**Article 120** The provisions of the Company Law of the People's Republic of China shall apply to the minimum registered capital requirements for full-time insurance agencies and insurance brokerages established in the form of companies

The insurance regulatory department of the State Council may adjust the minimum registered capital requirement of a full-time insurance agency or insurance brokerage based on its scope of business and scale of business, provided that the adjusted requirement shall not be lower than the amount stipulated in the Company Law of the People's Republic of China.

The registered capital or capital contribution amount of a full-time insurance agency or insurance brokerage shall be fully paid up in cash.

**Article 121** The senior management personnel of full-time insurance agencies and insurance brokerages shall have good moral character, be familiar with insurance laws and administrative regulations, possess the business management ability required for performance of duties, and have obtained the appointment qualifications verified by the insurance regulatory authorities before taking up their appointment.

**Article 122** Individual insurance agents, insurance agent personnel of insurance agencies and broker personnel of insurance brokerages shall have good moral character, possess the professional competency required for undertaking insurance agency or insurance brokerage business.

**Article 123** Insurance agencies and insurance brokerages shall have their own business premises and keep specific accounts books to record income and expenditure of insurance agency business or insurance brokerage business.

**Article 124** Insurance agencies and insurance brokerages shall make contributions to security deposit or take up professional liability insurance pursuant to the provisions of the insurance regulatory department of the State Council.

**Article 125** An individual insurance agent shall not accept entrustment from two or more insurers concurrently when handling life insurance business as an agent.

**Article 126** An insurer entrusting an insurance agent to handle insurance businesses shall enter into an agency entrustment agreement with the insurance agent to stipulate the rights and obligations of both parties pursuant to the law.

**Article 127** An insurer shall be liable for the acts committed by an insurance agent when handling insurance businesses as authorised by the insurer.

Where an insurance agent who does not have agency rights enters into a contract in the name of an insurer or where an insurance agent enters into a contract in the name of an insurer beyond its agency rights or where an insurance agent enters into a contract in the name of an insurer after its agency rights have terminated and the policyholder has a reason to believe that the insurance agent has agency rights, the act of agency shall be valid. The insurer may pursue the ultra vires liability of the insurance agent pursuant to the law.

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**Article 128** An insurance brokerage whose mistake causes a policyholder or an insured party to suffer from damages shall be liable to make compensation pursuant to the law.

**Article 129** Parties concerned in insurance activities may entrust an independent evaluation organisation established pursuant to the law such as an insurance appraisal institution or personnel who possess the relevant professional knowledge to carry out evaluation and appraisal of an insured event.

The organisation and personnel entrusted to carry out evaluation and appraisal of an insured event shall carry out the evaluation and appraisal lawfully, independently, objectively and equitably, and no organisation or individual shall interfere.

Where the organisation and personnel stipulated in the preceding paragraph intentionally or negligently cause an insurer or an insured party to suffer from damages, they shall be liable to make compensation pursuant to the law.

**Article 130** Insurance commissions shall be paid only to insurance agents and insurance brokerages, and shall not be paid to any other person.

**Article 131** Insurance agents and insurance brokerages and their personnel shall not commit the following acts when handling insurance business activities:

- (1) defraud an insurer, a policyholder, an insured party or a beneficiary;
- (2) conceal important information relating to an insurance contract;
- (3) hinder a policyholder from performing the obligation of providing truthful information as stipulated in this Law, or induce a policyholder not to perform the obligation of providing truthful information as stipulated in this Law;
- (4) give or commit to give a policyholder, an insured party or a beneficiary benefits which are not stipulated in the insurance contract;
- (5) make use of administrative powers, official duties or occupational convenience and other improper means to coerce, induce or restrict conclusion of an insurance contract by a policyholder;
- (6) forge or arbitrarily alter an insurance contract, or provide false proof materials for parties concerned in an insurance contract;
- (7) misappropriate, intercept and encroach premiums or insurance monies;
- (8) make use of business convenience to seek improper gains for other organisations or individuals;
- (9) conspire with a policyholder, an insured party or a beneficiary to obtain insurance monies by defrauding; or
- (10) divulge commercial secrets of an insurer, a policyholder or an insured party which have come to its knowledge in the course of business activities.

**Article 132** The provisions of the first paragraph of Article 86 and Article 113 of this Law shall apply to insurance agencies and insurance brokerages.

## **CHAPTER 6 SUPERVISION AND ADMINISTRATION OF INSURANCE INDUSTRY**

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**Article 133** The insurance regulatory authorities shall implement supervision and administration of insurance industry pursuant to the duties stipulated by this Law and the State Council and in accordance with the principles of lawfulness, transparency and equitableness, safeguard the order of insurance market, and protect the legitimate rights and interests of policyholders, insured parties and beneficiaries.

**Article 134** The insurance regulatory department of the State Council shall formulate and promulgate the relevant rules on supervision and administration of insurance industry pursuant to the laws and administrative regulations.

**Article 135** The insurance clauses and premium rates of insurance policies which relate to social and public interests, insurance policies of mandatory insurance implemented pursuant to the law and newly-developed insurance policies of life insurance, etc, shall be subject to approval of the insurance regulatory department of the State Council. The insurance regulatory department of the State Council shall comply with the principles of protection of social and public interests and prevention of unfair competition in the examination and approval of such insurance policies. The insurance clauses and premium rates of other types of insurance policies shall be filed with the insurance regulatory authorities for record.

The detailed measures for examination and approval and filing of insurance clauses and premium rates shall be formulated by the insurance regulatory department of the State Council pursuant to the provisions of the preceding paragraph.

**Article 136** Where the insurance clauses and premium rates used by an insurance company violate the laws or administrative regulations or the relevant provisions of the insurance regulatory department of the State Council, the insurance regulatory authorities shall order the insurance company to stop using such insurance clauses and premium rates and to make correction within a stipulated period; where the case is serious, the insurance company may be banned from declaring new insurance clauses and premium rates within a certain period.

**Article 137** The insurance regulatory department of the State Council shall establish a proper regulatory system for solvency of insurance companies to monitor solvency of insurance companies.

**Article 138** The insurance regulatory department of the State Council shall list insurance companies with inadequate solvency to be key regulatory targets, and may adopt the following measures according to the specific circumstances:

- (1) order the insurance companies to increase capital funds and to handle reinsurance;
- (2) restrict the scope of business;
- (3) restrict distribution of dividends to shareholders;
- (4) restrict purchase of fixed assets or scale of business expenses;
- (5) restrict the form and ratio of fund application;
- (6) restrict establishment of additional branch;
- (7) order the insurance companies to auction off non-performing assets and transfer insurance business;
- (8) restrict remuneration level of directors, supervisors and senior management personnel;
- (9) restrict commercial advertisements; or
- (10) order the insurance companies to stop accepting new business.

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**Article 139** Where an insurance company failed to make allocations to or carry forward various liability reserves pursuant to the provisions of this Law or failed to handle reinsurance pursuant to the provisions of this Law or seriously violates the provisions of this Law on fund application, the insurance regulatory authorities shall order the insurance company to make correction within a stipulated period and may order the insurance company to replace the person-in-charge and the relevant management personnel.

**Article 140** Where an insurance company failed to make correction within a stipulated period according to the decision on making correction within the stipulated period made by the insurance regulatory authorities pursuant to the provisions of Article 139 of this Law, the insurance regulatory department of the State Council may decide to assign insurance professionals and designate the relevant personnel of the insurance company to form a reorganisation team to carry out reorganisation of the company.

The reorganisation decision shall state the name of the company subject to reorganisation, the reason for reorganisation, the members of the reorganisation team and the reorganisation period, and a public announcement shall be made.

**Article 141** The reorganisation team shall have the right to supervise the day-to-day business of the insurance company subject to reorganisation. The person-in-charge and the relevant management personnel of the company subject to reorganisation shall exercise their official powers under the supervision of the reorganisation team.

**Article 142** During the reorganisation process, the original businesses of the insurance company subject to reorganisation shall continue. However, the insurance regulatory department of the State Council may order the company subject to reorganisation to stop some of the original businesses and stop accepting new business and to adjust fund application.

**Article 143** Where the insurance company subject to reorganisation has corrected the acts that violate the provisions of this Law after the reorganisation and resumes normal business status, the reorganisation team shall submit a report and the reorganisation shall be ended upon approval of the insurance regulatory department of the State Council; the insurance regulatory department of the State Council shall make a public announcement.

**Article 144** Under any of the following circumstances, the insurance regulatory department of the State Council may place the insurance company under receivership:

(1) the company is seriously insolvent; or

(2) the insurance company has violated the provisions of this Law and harms the social and public interests, and may seriously endanger or has seriously endangered the company's solvency.

There shall be no change to the creditor's rights and debt relationship of an insurance company under receivership as a result of receivership.

**Article 145** The insurance regulatory department of the State Council shall decide on and announce the composition of the receivership team and the implementation measures for receivership.

**Article 146** Upon expiry of the receivership period, the insurance regulatory department of the State Council may decide to extend the receivership period, provided that the receivership period shall not exceed two years.

**Article 147** Where an insurance company under receivership has resumed normal business ability upon expiry of the receivership period, the insurance regulatory department of the State Council shall decide to terminate the receivership and make a public announcement.



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**Article 148** Where an insurance company subject to reorganisation or an insurance company under receivership falls under the description stipulated in Article 2 of the Enterprise Bankruptcy Law of the People's Republic of China, the insurance regulatory department of the State Council may apply to a People's Court for reorganisation or bankruptcy liquidation of the insurance company pursuant to the law.

**Article 149** Where the Insurance Business Permit of an insurance company is revoked pursuant to the law due to illegal business operation of the insurance company, or the solvency of an insurance company is lower than the standard stipulated by the insurance regulatory department of the State Council and non-revocation will seriously harm the order of the insurance market or the public interests, the insurance regulatory department of the State Council shall revoke the insurance company and make a public announcement, and promptly organise a liquidation team pursuant to the law to carry out liquidation.

**Article 150** The insurance regulatory department of the State Council shall have the right to require the shareholders or actual controlling party of an insurance company to provide the relevant information and materials within a stipulated period.

**Article 151** Where a shareholder of an insurance company has made use of related party transaction to harm the interests of the company seriously and endangers the solvency of the company, the insurance regulatory department of the State Council shall order the shareholder to make correction. Prior to ordering the shareholder to make correction, the insurance regulatory department of the State Council may restrict its shareholder's rights; where the shareholder refuses to make correction, it may be ordered to transfer its shareholding in the insurance company.

**Article 152** The insurance regulatory authorities may, according to the requirements of performance of supervision and administration duties, hold supervision and administration talks with the directors, supervisors and senior management personnel of an insurance company, and require them to provide an explanation for significant matters pertaining to the business activities and risk management of the company.

**Article 153** During the period when an insurance company is subject to reorganisation or placed under receivership or subject to revocation and liquidation or encounters significant risks, the insurance regulatory department of the State Council may adopt the following measures on a director, a supervisor or a member of the senior management personnel of the company who is directly accountable and other directly accountable personnel:

- (1) notify the outbound administrative authorities to stop them from leaving China pursuant to the law; and
- (2) apply to the judicial authorities for imposing an injunction to prevent them from removing, transferring or disposing assets otherwise or create other rights on the assets.

**Article 154** The insurance regulatory authorities may adopt the following measures in performance of their duties pursuant to the law:

- (1) conduct on-site inspection at the premises of insurance companies, insurance agents, insurance brokerages, insurance assets management companies and representative offices of foreign insurance organisations;
- (2) enter the premises where alleged illegal acts have occurred to investigate and gather evidence;
- (3) question the parties concerned and organisations and individuals relating to investigation matters, and require them to provide an explanation on issues pertaining to investigation matters;
- (4) inspect and make copies of property rights registration materials, etc relating to investigation matters;

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(5) inspect and make copies of financial accounting materials and other relevant documents and materials of insurance companies, insurance agents, insurance brokerages, insurance assets management companies, representative offices of foreign insurance organisations and organisations and individuals relating to investigation matters; and seal up documents and materials which may be removed, concealed or destroyed;

(6) enquire about bank accounts of insurance companies, insurance agents, insurance brokerages, insurance assets management companies and representative offices of foreign insurance organisations alleged to engage in illegal business operation and bank accounts of organisations and individuals relating to alleged illegal matters; and

(7) where there is evidence to prove that assets relating to an alleged case such as illegal funds, etc, have been or may be removed or concealed or that important evidence has been or may be concealed, forged or destroyed, upon approval of the key person-in-charge of the insurance regulatory authorities, an application may be made to a People's Court for freezing or seizure.

The insurance regulatory authorities shall obtain the approval of the person-in-charge of the insurance regulatory authorities before adopting the measures stipulated in item (1), item (2) and item (5) of the preceding paragraph; the approval of the person-in-charge of the insurance regulatory department of the State Council shall be obtained before adopting the measures stipulated in item (6).

The insurance regulatory authorities shall assign not less than two supervision and inspection personnel or investigation personnel to carry out supervision and inspection or investigation pursuant to the law; the supervision and inspection personnel or investigation personnel shall show their legitimate identity pass and the notice of supervision and inspection or notice of investigation; where there is less than two supervision and inspection personnel or investigation personnel or where the supervision and inspection personnel or investigation personnel do not show their legitimate identity pass and the notice of supervision and inspection or notice of investigation, the organisation and individual subject to inspection or investigation shall have the right to refuse inspection or investigation.

**Article 155** Organisations and individuals subject to inspection or investigation shall cooperate with inspection or investigation carried out by the insurance regulatory authorities pursuant to the law and in accordance with their duties.

**Article 156** Personnel of the insurance regulatory authorities shall be devoted to their duties, act according to the law, and be fair and honest, and shall not make use of occupational convenience to seek improper gains or divulge commercial secrets of the relevant organisations and individuals which have come to their knowledge.

**Article 157** The insurance regulatory department of the State Council shall establish a supervision and administration information sharing mechanism with the People's Bank of China and other financial regulatory departments of the State Council.

When the insurance regulatory authorities carry out supervision and inspection or investigation pursuant to the law and in accordance with their duties, the relevant authorities shall render cooperation.

## **CHAPTER 7 LEGAL LIABILITY**

**Article 158** Insurance companies and insurance assets management companies which have been established arbitrarily in violation of the provisions of this Law or insurance companies and insurance assets management companies which engage in commercial insurance businesses illegally in violation of the provisions of this Law shall be shut down by the insurance regulatory authorities; illegal income shall be confiscated and a fine ranging from one to five times the amount of illegal income shall be imposed; where there is no illegal income or the amount of illegal income is less than RMB200,000, a fine ranging from RMB200,000 to RMB1 million shall be imposed.

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**Article 159** Full-time insurance agencies and insurance brokerages which have been established arbitrarily in violation of the provisions of this Law or full-time insurance agencies and insurance brokerages which engage in insurance agency business or insurance brokerage business without obtaining an insurance agency business permit or insurance brokerage business permit shall be shut down by the insurance regulatory authorities; illegal income shall be confiscated and a fine ranging from one to five times the amount of illegal income shall be imposed; where there is no illegal income or the amount of illegal income is less than RMB50,000, a fine ranging from RMB50,000 to RMB300,000 shall be imposed.

**Article 160** Insurance companies which violate the provisions of this Law in engaging in businesses beyond the approved scope of business shall be ordered by the insurance regulatory authorities to make correction within a stipulated period; illegal income shall be confiscated and a fine ranging from one to five times the amount of illegal income shall be imposed; where there is no illegal income or the amount of illegal income is less than RMB100,000, a fine ranging from RMB100,000 to RMB500,000 shall be imposed. Where the insurance company failed to make correction within the stipulated period or the violation has serious consequences, the insurance company shall be ordered to suspend business operation to carry out reorganisation or its business permit shall be revoked.

**Article 161** Insurance companies which have committed any of the acts stipulated in Article 116 of this Law shall be ordered by the insurance regulatory authorities to make correction and be subject to a fine ranging from RMB50,000 to RMB300,000; where the case is serious, the scope of business of the insurance company shall be restricted or the insurance company shall be ordered to stop accepting new business or the business permit of the insurance company shall be revoked.

**Article 162** Insurance companies which violate the provisions of Article 84 of this Law shall be ordered by the insurance regulatory authorities to make correction and be subject to a fine ranging from RMB10,000 to RMB100,000.

**Article 163** Insurance companies which have committed any of the following acts in violation of the provisions of this Law shall be ordered by the insurance regulatory authorities to make correction and be subject to a fine ranging from RMB50,000 to RMB300,000:

(1) underwrite excess insurance and the case is serious; or

(2) underwrite an insurance policy under which insurance monies are payable upon death of the insured party for a person without capacity for civil conduct.

**Article 164** Insurance companies which have committed any of the following acts in violation of the provisions of this Law shall be ordered by the insurance regulatory authorities to make correction and be subject to a fine ranging from RMB50,000 to RMB300,000; where the case is serious, the scope of business of the insurance company may be restricted or the insurance company shall be ordered to stop accepting new business or the business permit of the insurance company shall be revoked:

(1) failure to make contributions to security deposit pursuant to the provisions or use of the security deposit in violation of the provisions;

(2) failure to make allocations to or carry forward various liability reserves pursuant to the provisions;

(3) failure to make contributions to the Insurance Protection Fund or make allocations to provident fund pursuant to the provisions;

(4) failure to handle reinsurance pursuant to the provisions;

(5) failure to apply funds of the insurance company pursuant to the provisions;

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(6) establishment of a branch without obtaining approval; or

(7) failure to apply for approval for insurance clauses and premium rates pursuant to the provisions.

**Article 165** Insurance agencies and insurance brokerages which have committed any of the acts stipulated in Article 131 of this Law shall be ordered by the insurance regulatory authorities to make correction and be subject to a fine ranging from RMB50,000 to RMB300,000; where the case is serious, the business permit shall be revoked.

**Article 166** Insurance agencies and insurance brokerages which have committed any of the following acts in violation of the provisions of this Law shall be ordered by the insurance regulatory authorities to make correction and be subject to a fine ranging from RMB20,000 to RMB100,000; where the case is serious, the insurance agency or insurance brokerage shall be ordered to suspend business operation to carry out reorganisation or its business permit shall be revoked:

(1) failure to make contributions to security deposit or take up professional liability insurance pursuant to the provisions; or

(2) failure to keep specific accounts books to record business income and expenditure pursuant to the provisions.

**Article 167** Persons who violate the provisions of this Law in employing personnel who do not possess appointment qualification shall be ordered by the insurance regulatory authorities to make correction and be subject to a fine ranging from RMB20,000 to RMB100,000.

**Article 168** Persons who violate the provisions of this Law in transferring, leasing or lending their business permit shall be subject to a fine ranging from RMB10,000 to RMB100,000 imposed by the insurance regulatory authorities; where the case is serious, the offender shall be ordered to suspend business operation to carry out reorganisation or the business permit shall be revoked.

**Article 169** Persons who have committed any of the following acts in violation of the provisions of this Law shall be ordered by the insurance regulatory authorities to make correction within a stipulated period; where the correction is not made within the stipulated period, a fine ranging from RMB10,000 to RMB100,000 shall be imposed:

(1) failure to submit or keep reports, statements, documents and materials pursuant to the provisions, or failure to provide the relevant information and materials pursuant to the provisions;

(2) failure to file the insurance clauses and premium rates for record pursuant to the provisions; or

(3) failure to disclose information pursuant to the provisions.

**Article 170** Persons who have committed any of the following acts in violation of the provisions of this Law shall be ordered by the insurance regulatory authorities to make correction and be subject to a fine ranging from RMB100,000 to RMB500,000; where the case is serious, the scope of business may be restricted or the offender may be ordered to stop accepting new business or the business permit shall be revoked:

(1) prepare or provide false reports, statements, documents and materials;

(2) refuse or hinder supervision and inspection carried out pursuant to the law; or

(3) failed to use approved or filed insurance clauses or premium rates pursuant to the provisions.

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**Article 171** Insurance companies, insurance assets management companies, full-time insurance agencies and insurance brokerages which violate the provisions of this Law shall be punished separately by the insurance regulatory authorities pursuant to the provisions of Article 160 to Article 170 of this Law; the person-in-charge who is directly accountable and other directly accountable personnel shall be given a warning, and a fine ranging from RMB10,000 to RMB100,000 shall be imposed; where the case is serious, the appointment qualification shall be revoked.

**Article 172** Individual insurance agents who violate the provisions of this Law shall be given a warning by the insurance regulatory authorities, and may be subject to a fine of not more than RMB20,000; where the case is serious, a fine ranging from RMB20,000 to RMB100,000 shall be imposed.

**Article 173** Representative offices of foreign insurance organisations which have been established in the People's Republic of China arbitrarily without approval of the insurance regulatory department of the State Council shall be shut down by the insurance regulatory department of the State Council and be subject to a fine ranging from RMB50,000 to RMB300,000.

Representative offices of foreign insurance organisations established in the People's Republic of China which engage in insurance business activities shall be ordered by the insurance regulatory authorities to make correction; the illegal income shall be confiscated and a fine ranging from one to five times the amount of illegal income shall be imposed; where there is no illegal income or the amount of illegal income is less than RMB200,000, a fine ranging from RMB200,000 to RMB1 million shall be imposed; the foreign insurance organisation may be ordered to replace the chief representative of the representative office; where the case is serious, the representative office shall be revoked.

**Article 174** Where a policyholder, an insured party or a beneficiary has committed any of the following acts to carry out insurance fraud but the case does not constitute a criminal offence, administrative punishment shall be meted out pursuant to the law:

(1) a policyholder who intentionally fabricates the subject matter of insurance to obtain insurance monies by defrauding;

(2) fabricate a non-existent insured event or fabricate a false reason for the accident or exaggerate the extent of damages to obtain insurance monies by defrauding; or

(3) intentionally cause the occurrence of an insured event to obtain insurance monies by defrauding.

An examiner, an assessor or a testifier of an insured event who intentionally provides false proof documents to facilitate insurance fraud of a policyholder, an insured party or a beneficiary shall be punished pursuant to the provisions of the preceding paragraph.

**Article 175** Persons who violate the provisions of this Law and cause others to suffer from damages shall bear civil liability pursuant to the law.

**Article 176** Persons who refuse or hinder the exercise of official powers in respect of supervision and inspection or investigation by the insurance regulatory authorities and their personnel pursuant to the law without using violence or threat shall be subject to public security punishment pursuant to the law.

**Article 177** In the case of violation of the provisions of laws and administrative regulations and where the case is serious, the insurance regulatory department of the State Council may ban the relevant accountable personnel from working in the insurance industry for a certain period or permanently.

**Article 178** Personnel of the insurance regulatory authorities engaging in supervision and administration duties who have committed any of the following acts shall be punished pursuant to the law:

(1) approve establishment of an organisation in violation of the provisions;

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- (2) examine and approve insurance clauses and premium rates in violation of the provisions;
  - (3) carry out on-site inspection in violation of the provisions;
  - (4) enquire about accounts or freeze funds in violation of the provisions;
  - (5) divulge commercial secrets of the relevant organisations and individuals which have come to their knowledge;
  - (6) implement administrative punishment in violation of the provisions; or
  - (7) any other acts of abusing official powers and engaging in dereliction of duty.

**Article 179** Where a violation of the provisions of this Law constitutes a criminal offence, criminal liability shall be pursued in accordance with the law.

## **CHAPTER 8 SUPPLEMENTARY PROVISIONS**

**Article 180** Insurance companies shall join insurance industry associations. Insurance agents, insurance brokerages and insurance appraisal institutions may join insurance industry associations.

Insurance industry associations shall be self-governing organisations of the insurance industry and shall be social institution legal persons.

**Article 181** This Law shall apply to commercial insurance businesses operated by other insurance organisations established pursuant to the law which are non-insurance companies.

**Article 182** The relevant provisions of the Maritime Law of the People's Republic of China shall apply to marine insurance; for matters not stipulated in the Maritime Law of the People's Republic of China, the relevant provisions of this Law shall apply.

**Article 183** The provisions of this Law shall apply to Sino-foreign equity joint venture insurance companies, wholly foreign-owned insurance companies and branches of foreign insurance companies; where the laws and administrative regulations provide otherwise, such provisions shall prevail.

**Article 184** The State shall support development of insurance businesses which serve agricultural production. Agricultural insurance shall be separately provided by laws and administrative regulations.

Where the laws and administrative regulations provide otherwise on mandatory insurance, such provisions shall prevail.

**Article 185** This Law shall be implemented with effect from 1 October 2009.



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