Construction Law of the PRC

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Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Construction Permits 2

Chapter III — Qualifications of Enterprises Engaging in Construction Activities 3

Chapter IV — Contracting and Subcontracting of Construction Projects 3

Chapter V — Supervision and Administration of Construction Projects 4

Chapter VI — Quality Management of Construction Projects 5

Chapter VII — Safety Management of Construction Projects 5

Chapter VIII — Legal Liability 6

Chapter IX — Supplementary Provisions 7

Table of Contents

- Chapter I — General Provisions
- Chapter II — Construction Permits
- Chapter III — Qualifications of Enterprises Engaging in Construction Activities
- Chapter IV — Contracting and Subcontracting of Construction Projects
- Chapter V — Supervision and Administration of Construction Projects
- Chapter VI — Quality Management of Construction Projects
- Chapter VII — Safety Management of Construction Projects
- Chapter VIII — Legal Liability
- Chapter IX — Supplementary Provisions

Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of strengthening the supervision and administration of construction activities, maintaining the order of the construction market, ensuring the quality and safety of construction projects, and promoting the healthy development of the construction industry.

Article 2 — This Law shall apply to all construction activities and the supervision and administration of construction activities within the territory of the People’s Republic of China. For the purposes of this Law, “construction activities” means the construction of various types of buildings and their ancillary facilities, and

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the installation of their supporting lines, pipelines and equipment.

Article 3 — Construction activities shall ensure the quality and safety of construction projects and comply with the state's safety standards for construction projects.

Article 4 — The state shall support the development of the construction industry and the research and application of science and technology in the construction industry, improve the design level of buildings, encourage energy conservation and environmental protection, advocate the adoption of advanced technology, advanced equipment, advanced techniques, new building materials and modern management methods.

Article 5 — Units and individuals engaged in construction activities shall abide by laws and regulations, shall not harm the public interest or the lawful rights and interests of others, and shall not obstruct or interfere with the supervision and administration of construction activities by the relevant departments. No unit or individual shall obstruct or interfere with the supervision and administration of construction activities by the relevant departments in accordance with the law.

Article 6 — The housing and urban-rural development department of the State Council shall exercise unified supervision and administration over construction activities throughout the country. The housing and urban-rural development departments of local people's governments at or above the county level shall exercise unified supervision and administration over construction activities within their respective administrative regions. The relevant departments of the State Council shall, in accordance with the division of functions and duties prescribed by the State Council, be responsible for the supervision and administration of the relevant professional construction activities.

Chapter II — Construction Permits

Article 7 — Before the commencement of a construction project, the construction unit shall apply for a construction permit with the housing and urban-rural development department of the local people's government at or above the county level at the place where the project is located in accordance with the relevant provisions of the state, except for small-scale projects below the threshold prescribed by the housing and urban-rural development department of the State Council. Construction projects that are required to undergo the approval formalities in accordance with the authority and procedures prescribed by the State Council shall not be commenced until the approval formalities have been completed.

Article 8 — An application for a construction permit shall meet the following conditions: (1) the formalities for the approval of land use for construction have been completed in accordance with the law; (2) the construction project planning permit has been obtained; (3) where demolition is required, the demolition schedule meets the construction requirements; (4) the construction enterprise has been determined; (5) there are construction drawings and technical information that meet the construction requirements; (6) there are specific measures to ensure the quality and safety of the project; (7) the construction funds have been secured; and (8) other conditions prescribed by laws and administrative regulations. The housing and urban-rural development department shall, within seven days from the date of receipt of the application, issue a construction permit to the applicant if the conditions specified in this Law are met; if the conditions are not met, the reasons shall be stated.

Article 9 — The construction unit shall commence construction within three months from the date of receipt of the construction permit. Where construction cannot be commenced within the time limit for any reason, the construction unit shall apply for an extension before the expiration of the time limit; the extension shall be limited to two times, each time not exceeding three months. Where construction is not commenced and no application for extension is filed, or the extension has expired, the construction permit shall automatically become invalid.

Article 10 — Where a construction project under construction is suspended for any reason, the construction unit shall report to the department that issued the construction permit within one month from the date of suspension and shall, in accordance with the relevant provisions, carry out maintenance and management of the construction project. When the construction project is resumed, the construction unit shall report to the department that issued the construction permit. Before resuming construction of a project for which construction has been suspended for one year or more, the construction unit shall apply to the department that issued the construction permit for verification of the construction permit.

Article 11 — For small-scale projects below the threshold prescribed by the housing and urban-rural development department of the State Council that do not require a construction permit, the construction unit shall, before the commencement of construction, report the matter to the housing and urban-rural development department of the local people's government at or above the county level at the place where the project is located for the record.

Chapter III — Qualifications of Enterprises Engaging in Construction Activities

Article 12 — Construction engineering survey and design enterprises, construction enterprises, and supervision enterprises engaged in construction activities shall meet the following conditions: (1) having registered capital that meets the state's provisions; (2) having professional and technical personnel with statutory practice qualifications appropriate to the scope of their construction activities; (3) having technical equipment appropriate to the scope of their construction activities; and (4) other conditions prescribed by laws and administrative regulations. Construction engineering survey and design enterprises, construction enterprises and supervision enterprises shall, in accordance with the scope of their registered capital, professional and technical personnel, technical equipment, and completed construction project performance and other qualifications, apply for qualifications and may engage in construction activities within the scope of their qualification levels only after passing the qualification examination and obtaining the corresponding qualification certificates.

Article 13 — Professional and technical personnel engaged in construction activities shall obtain the corresponding practice qualifications in accordance with the law and engage in construction activities within the scope permitted by their practice qualification certificates.

Chapter IV — Contracting and Subcontracting of Construction Projects

Article 14 — The contracting and subcontracting of construction projects shall follow the principles of openness, fairness and equal competition, and the contracting unit shall be selected through bidding in accordance with the law.

Article 15 — The parties to the contract for a construction project shall enter into a written contract and specify the rights and obligations of both parties. The construction project contract shall contain the project scope, construction period, quality requirements, project cost, technical data delivery time, responsibilities for supply of materials and equipment, fund allocation and settlement, completion acceptance, quality warranty scope and warranty period, mutual cooperation, and other terms as agreed upon.

Article 16 — The tendering and bidding activities for construction projects shall follow the principles of openness, fairness and impartiality and shall be conducted in accordance with the law. No unit or individual shall break up a construction project that should be subject to bidding in accordance with the law into parts, or evade bidding by any other means.

Article 17 — The contract issuing unit and the contract undertaking unit shall comprehensively perform their contractual obligations in accordance with the law. Where a party fails to perform its contractual obligations, the party shall bear liability for breach of contract in accordance with the law.

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Article 18 — The contract issuing unit and its staff members shall not accept bribes or commissions, or seek other improper benefits in the contracting of construction projects. The contract undertaking unit and its staff members shall not offer bribes or seek improper benefits by other means for the purpose of contracting a project.

Article 19 — A contract undertaking unit for a construction project shall hold the qualification certificate obtained in accordance with the law and undertake projects within the scope of business permitted by its qualification level. A construction enterprise shall not undertake projects beyond the scope of business permitted by its qualification level, or undertake projects in the name of another construction enterprise. No unit or individual shall, by any means, allow a construction enterprise to undertake projects in its name beyond the scope of business permitted by its qualification level.

Article 20 — Large construction projects or construction projects with complex structures may be jointly undertaken by two or more contract undertaking units. The parties jointly undertaking a contract shall bear joint and several liability for the performance of the contract. Where two or more contract undertaking units with different qualification levels form a consortium, the project shall be undertaken in accordance with the business scope permitted by the qualification level of the unit with the lower qualification level.

Article 21 — The general contractor of a construction project may, in accordance with the contract or with the consent of the contract issuing unit, subcontract part of the contracted project to a subcontractor with the corresponding qualifications. The subcontractor shall not subcontract the subcontracted project again, except for labor subcontracting. The general contractor shall be responsible to the contract issuing unit for the subcontracted project, and the subcontractor shall bear joint and several liability with the general contractor for the subcontracted project. It is prohibited for the general contractor to subcontract the project to a unit without the corresponding qualifications, or to break up the contracted project and subcontract the parts in the name of subcontracting. It is prohibited for the subcontractor to subcontract the subcontracted project again.

Chapter V — Supervision and Administration of Construction Projects

Article 22 — The state shall adopt a construction project supervision system. For the following construction projects, supervision shall be carried out: (1) large and medium-sized public utility projects; (2) projects wholly or partly funded by state-owned funds or financed with state funds; (3) projects using loans or aid funds from international organizations or foreign governments; and (4) other projects prescribed by laws and administrative regulations. The supervision of construction projects shall be carried out by a supervision unit with the corresponding qualifications entrusted by the construction unit, and a written entrustment supervision contract shall be entered into.

Article 23 — The construction project supervision unit shall, in accordance with laws, administrative regulations, relevant technical standards, design documents and the construction project contract, exercise supervision over the construction project on behalf of the construction unit in terms of quality, construction period and use of construction funds.

Article 24 — Before the implementation of construction project supervision, the construction unit shall notify the construction enterprise under supervision in writing of the contents of the entrusted supervision unit and the authority of supervision. The supervision unit shall dispatch a chief supervision engineer and supervision engineers with the corresponding qualifications to the construction site. The supervision engineers shall exercise their functions and powers in accordance with the relevant provisions.

Article 25 — The supervision unit shall not have any affiliation or other interest relationship with the contract undertaking unit of the construction project, building materials, construction components and fittings, or equipment suppliers. The supervision unit shall not transfer its supervision business.

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Chapter VI — Quality Management of Construction Projects

Article 26 — The survey, design and construction of construction projects must comply with the relevant state safety standards for construction projects. The specific administrative measures shall be formulated by the State Council. The state's safety standards for construction projects are those that cannot be adapted to ensuring the safety of buildings, and timely amendments shall be made.

Article 27 — The construction unit shall not require the survey, design or construction enterprise to violate the state's safety standards for construction projects and quality standards for construction projects, or reduce the quality of the project. The construction unit shall not force the contract undertaking unit to use substandard building materials, construction components and fittings, or equipment in construction activities.

Article 28 — The construction enterprise shall be responsible for the quality of the construction project. The construction enterprise must carry out construction in accordance with the engineering design drawings and construction technical standards, and shall not cut corners or substitute substandard materials. The construction enterprise shall inspect the building materials, construction components and fittings, and equipment used in the construction, and those that fail the inspection shall not be used.

Article 29 — The construction enterprise must establish and improve the construction quality inspection system, strictly manage the work procedures, keep records of concealed works, and the concealed works shall be covered only after the construction unit and the construction project quality supervision institution have passed the acceptance inspection. Where the construction unit or the construction project quality supervision institution fails to conduct acceptance inspection within the prescribed time limit, the construction enterprise may conduct acceptance inspection on its own and keep records of the concealed works acceptance inspection, and shall continue the construction.

Article 30 — Upon completion of a construction project, the construction unit shall organize the survey, design, construction and supervision units and other relevant units to conduct acceptance inspection in accordance with the relevant provisions of the state, and may put the project into use only after the acceptance inspection is passed. Without acceptance inspection or failing the acceptance inspection, the construction project shall not be put into use.

Article 31 — The construction unit shall, within 15 days from the date of passing the acceptance inspection of the construction project, submit the project completion acceptance report and the relevant approval documents for planning, public security fire control, environmental protection and other departments to the housing and urban-rural development department or other relevant departments for the record.

Article 32 — A construction project shall be subject to a quality warranty system. The quality warranty period and warranty scope for construction projects shall be determined in accordance with the relevant provisions of the state and the contract. During the warranty period, the construction enterprise shall provide warranty for the quality defects of the construction project in accordance with the contract. Where quality defects occur in a construction project, the construction unit shall require the construction enterprise to provide warranty.

Chapter VII — Safety Management of Construction Projects

Article 33 — The safety management of construction projects must adhere to the policy of safety first and prevention as the principal focus, and establish and improve the safety production responsibility system and the mass prevention and treatment system.

Article 34 — The design of a construction project shall comply with the construction safety regulations and technical specifications formulated in accordance with the state's provisions, ensure the safety performance of the project and the safety of the construction personnel and operators, and specify the key parts and key links of the construction safety and the guiding opinions on prevention of construction safety accidents.

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Article 35 — When preparing the construction organization design, the construction enterprise shall, based on the characteristics of the construction project, formulate corresponding safety technical measures. For highly specialized engineering projects, special safety construction organization designs shall be prepared and safety technical measures shall be adopted.

Article 36 — The construction enterprise shall take measures to maintain safety and prevent dangers at the construction site. The construction site shall be subject to closed-off management. The construction site shall have conspicuous safety warning signs, and the layout and temporary facilities shall meet the requirements of safety technology and fire prevention. Temporary buildings at the construction site shall not affect the safety performance of the construction project.

Article 37 — The construction enterprise shall establish a safety production education and training system. Construction personnel shall not take up their posts without safety production education and training. Special type operators of the construction enterprise must undergo special training in accordance with the relevant provisions of the state and may take up their posts only after obtaining the special type operator qualification certificate.

Article 38 — The construction unit shall provide construction enterprises with information on underground pipelines and other underground structures at the construction site and relevant data, and the construction enterprise shall take measures to protect them.

Article 39 — Where the construction enterprise violates the safety production laws and regulations and the construction safety technical specifications and standards during the construction process, the construction unit, the supervision unit, or the construction enterprise shall have the right to stop the construction and require rectification.

Chapter VIII — Legal Liability

Article 40 — Where a construction unit commences construction without obtaining a construction permit or without the approval of the relevant department, the housing and urban-rural development department of the local people’s government at or above the county level shall order it to make rectification, and the construction unit shall be ordered to cease construction and make rectification within a time limit, and may be fined not less than 1 percent but not more than 2 percent of the project contract price.

Article 41 — Where a contract issuing unit accepts a bribe or commission, or seeks other improper benefits in the contracting of a construction project, it shall be fined not less than 5,000 yuan but not more than 50,000 yuan. The directly responsible person in charge and other directly responsible persons shall be subject to administrative sanctions in accordance with the law. Where the circumstances are serious, the qualification certificate shall be revoked. Where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 42 — Where a contract undertaking unit, in violation of the provisions of this Law, undertakes a project beyond the scope of business permitted by its qualification certificate, it shall be ordered to cease the illegal act and fined. The illegal gains, if any, shall be confiscated. Where the circumstances are serious, the qualification certificate shall be revoked. Where a contract undertaking unit subcontracts a construction project to a unit without the corresponding qualifications, or breaks up the contracted project and subcontracts the parts in the name of subcontracting in violation of the provisions of this Law, it shall be ordered to make rectification, the illegal gains shall be confiscated, and a fine shall be imposed. The qualification certificate may be ordered to be suspended for rectification. Where the circumstances are serious, the qualification certificate shall be revoked.

Article 43 — Where a construction enterprise transfers or lends its qualification certificate, or allows others to undertake projects in its name in any other way, it shall be ordered to make rectification, the illegal gains shall be confiscated, and a fine shall be imposed. The qualification certificate may be ordered to be

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suspended for rectification. Where the circumstances are serious, the qualification certificate shall be revoked. Where the construction enterprise causes losses to the contract issuing unit in the circumstances specified in the preceding paragraph, the construction enterprise shall bear joint and several liability for compensation.

Article 44 — Where a construction enterprise, in the course of construction, cuts corners or substitutes substandard materials, or fails to carry out construction in accordance with the engineering design drawings or construction technical standards, thereby causing the quality of the construction project to fail to meet the prescribed quality standards, the construction enterprise shall be responsible for reworking and repairing the project and shall compensate for the losses caused thereby. Where the circumstances are serious, the qualification certificate shall be ordered to be suspended for rectification or revoked.

Article 45 — Where a construction project is put into use without acceptance inspection or failing the acceptance inspection in violation of the provisions of this Law, the construction unit shall be ordered to make rectification and fined not less than 2 percent but not more than 4 percent of the project contract price. Where losses are caused, the construction unit shall bear the liability for compensation in accordance with the law.

Article 46 — Staff members of the housing and urban-rural development departments and other relevant departments who engage in malpractice for personal gain, abuse their power or neglect their duties in the course of the supervision and administration of construction activities shall be subject to administrative sanctions in accordance with the law. Where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Chapter IX — Supplementary Provisions

Article 47 — The provisions of this Law on the construction permit, qualification examination of construction enterprises, and contracting and subcontracting of construction projects shall not apply to small-scale residential building construction activities carried out by rural residents themselves. The specific administrative measures shall be formulated by the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government.

Article 48 — Where military construction projects are subject to special provisions, such provisions shall prevail.

Article 49 — This Law shall come into force as of March 1, 1998. The amended text (2019 Amendment) shall come into force as of April 23, 2019.

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