Enterprise Bankruptcy Law of the People’s Republic of China

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Chapter I — General Provisions

Article 1. This Law is enacted for the purposes of standardizing enterprise bankruptcy procedures, fairly settling creditors' claims and debts, protecting the lawful rights and interests of creditors and debtors, and maintaining the order of the socialist market economy.

Article 2. Where an enterprise legal person is unable to pay its debts as they fall due and its assets are insufficient to cover all its debts, or it is obviously unable to pay off its debts, its debts shall be settled in accordance with the provisions of this Law. Where an enterprise legal person is under the circumstances specified in the preceding paragraph or is obviously likely to become unable to pay off its debts, reorganization may be conducted in accordance with the provisions of this Law.

Article 3. Bankruptcy cases shall be under the jurisdiction of the people's court at the place where the debtor is domiciled.

Article 4. Where this Law contains no provisions on bankruptcy procedures, the relevant provisions of the Civil Procedure Law shall apply.

Article 5. Where bankruptcy proceedings are commenced in accordance with this Law, such proceedings shall have effect on the debtor's property located outside the territory of the People's Republic of China. Where a legally effective judgment or ruling on a bankruptcy case made by a foreign court involves the debtor's property located within the territory of the People's Republic of China, and an application or request is made to the people's court for recognition and enforcement thereof, the people's court shall, in accordance with the relevant provisions of international treaties that the People's Republic of China has concluded or acceded to, or on the principle of reciprocity, conduct examination and, where the ruling does not violate the fundamental principles of the laws of the People's Republic of China, does not prejudice State sovereignty, security, or public interests, and does not prejudice the lawful rights and interests of creditors within the territory of the People's Republic of China, rule to recognize and enforce the same.

Article 6. In hearing a bankruptcy case, the people's court shall protect the lawful rights and interests of the employees of the enterprise in accordance with law and pursue the legal liability of the management personnel of the bankruptcy enterprise in accordance with law.

Chapter II — Application and Acceptance

Section 1: Application

Article 7. Where a debtor falls under the circumstances specified in Article 2 of this Law, it may file an application with the people's court for reorganization, settlement, or bankruptcy liquidation. Where a debtor is unable to pay its debts as they fall due, a creditor may file an application with the people's court for reorganization or bankruptcy liquidation of the debtor. Where an enterprise legal person has been dissolved but has not been liquidated or its liquidation has not been completed, and its assets are insufficient to cover all its debts, the person legally responsible for liquidation shall file an application with the people's court for bankruptcy liquidation.

Article 8. When filing an application with the people's court, the applicant shall submit a bankruptcy application and the relevant evidence. The bankruptcy application shall state the following:

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(1) Basic information on the applicant and the respondent;

(2) The purpose of the application;

(3) The facts on the basis of which the application is filed and the grounds therefor; and

(4) Other matters that the people's court deems necessary to be stated.

Article 9. An applicant may withdraw a bankruptcy application before the people's court decides to accept it. Where the people's court decides not to accept a bankruptcy application, the applicant may, within 10 days from the date of service of the decision, appeal to the people's court at the next higher level.

Section 2: Acceptance

Article 10. The people's court shall, within 15 days from the date of receipt of a bankruptcy application, decide whether to accept the application. Under special circumstances, the aforementioned 15-day period may be extended for 15 days upon approval by the people's court at the next higher level. Where the people's court decides to accept a bankruptcy application, it shall serve the decision on the applicant within five days from the date of making the decision. Where the people's court decides not to accept a bankruptcy application, it shall serve the decision on the applicant together with the reasons therefor within five days from the date of making the decision.

Article 11. The debtor shall, within 15 days from the date of service of the decision of the people's court to accept the bankruptcy application, submit to the people's court its financial statements, a detailed inventory of its property, a list of its creditors and debtors, and the relevant documents relating to its employees' resettlement, such as the proposal for the resettlement of its employees, the wages and social insurance premium payment status, etc.

Article 12. Where the people's court decides not to accept a bankruptcy application or rules to reject a bankruptcy application, and the applicant appeals against the decision or ruling, the people's court at the next higher level shall make a ruling within 10 days from the date of receipt of the appeal.

Article 13. The people's court shall, at the same time as it decides to accept a bankruptcy application, designate an administrator.

Article 14. The people's court shall, within 25 days from the date of its decision to accept a bankruptcy application, notify known creditors and make a public announcement. The notification and public announcement shall state the following:

(1) The name of the applicant and the respondent;

(2) The date on which the people's court accepted the bankruptcy application;

(3) The time limit for the declaration of creditors' rights, the place for declaration, and the matters for attention;

(4) The name of the administrator and the place where it handles affairs;

(5) A requirement that the debtor or its property holder pay off its debts or deliver its property to the administrator;

(6) The time and place of the first creditors' meeting; and

(7) Other matters that the people's court deems necessary to be stated.

Article 15. From the date of service of the decision of the people's court to accept the bankruptcy application until the conclusion of the bankruptcy proceedings, the relevant personnel of the debtor shall bear the following obligations:

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(1) Properly keeping the property, seals, accounting books, documents, and other materials possessed and managed by them;

(2) Working according to the requirements of the people's court and the administrator and truthfully answering inquiries;

(3) Attending creditors' meetings and truthfully answering creditors' inquiries;

(4) Without the permission of the people's court, not leaving their place of domicile; and

(5) Not serving as a director, supervisor, or senior manager of any other enterprise.

The relevant personnel referred to in the preceding paragraph means the legal representative of the enterprise; with the approval of the people's court, it may also include the financial management personnel and other business management personnel of the enterprise.

Article 16. After the people's court accepts a bankruptcy application, the debtor's payment of debts to individual creditors shall be invalid.

Article 17. After the people's court accepts a bankruptcy application, the debtor's property holder shall deliver the property to the administrator, and the debtor's debtor shall pay off its debts to the administrator. Where a debtor's property holder deliberately delivers property to the debtor in violation of the provisions of the preceding paragraph, thus causing losses to creditors, it may not be exempted from its obligation to deliver the property.

Article 18. After the people's court accepts a bankruptcy application, the administrator shall have the right to decide to rescind or continue to perform any contract entered into by the debtor before the acceptance of the application and not yet fully performed by both parties, and shall notify the other party to the contract of its decision. Where the administrator fails to notify the other party to the contract within two months from the date of acceptance of the bankruptcy application, or fails to respond within 30 days from the date of receipt of a demand notice from the other party to the contract, the contract shall be deemed rescinded. Where the administrator decides to continue to perform the contract, the other party to the contract shall perform the same, but shall have the right to request the administrator to provide a guarantee. Where the administrator fails to provide a guarantee, the contract shall be deemed rescinded.

Article 19. After the people's court accepts a bankruptcy application, measures for the preservation of the debtor's property shall be lifted, and enforcement procedures shall be suspended.

Article 20. After the people's court accepts a bankruptcy application, any civil litigation or arbitration involving the debtor that has already commenced but has not been concluded shall be suspended. Such litigation or arbitration may continue after the administrator takes over the debtor's property.

Article 21. After the people's court accepts a bankruptcy application, any civil litigation relating to the debtor may only be filed with the people's court that has accepted the bankruptcy application.

Chapter III — Administrator

Article 22. The administrator shall be designated by the people's court. Where the creditors' meeting believes that the administrator is unable to perform its duties in accordance with law or in a fair manner, it may apply to the people's court for replacement of the administrator. The measures for designating an administrator and determining the remuneration of an administrator shall be formulated by the Supreme People's Court.

Article 23. The administrator shall perform its duties in accordance with the provisions of this Law, report on its work to the people's court, and accept supervision by the creditors' meeting and the creditors' committee. The administrator shall attend the creditors' meeting as a non-voting participant and report on the performance of its duties and answer inquiries.

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Article 24. The people's court may designate a liquidation team composed of personnel from the relevant departments and authorities or a law firm, accounting firm, bankruptcy liquidation firm, or other social intermediary institution established in accordance with law to serve as the administrator. A natural person serving as an administrator shall participate in the practice of an intermediary institution and shall take out professional liability insurance.

Article 25. The administrator shall perform the following duties:

(1) Taking over the debtor's property, seals, and accounting books and documents;

(2) Investigating the debtor's financial status and preparing a statement of financial status;

(3) Making decisions on the debtor's internal management affairs;

(4) Making decisions on the debtor's daily expenses and other necessary expenses;

(5) Making decisions, before the first creditors' meeting is convened, on whether to continue or suspend the debtor's business operations;

(6) Managing and disposing of the debtor's property;

(7) Participating in litigation, arbitration, or other legal proceedings on behalf of the debtor;

(8) Proposing the convening of creditors' meetings; and

(9) Performing other duties that the people's court deems necessary for the administrator to perform.

Article 26. Before the first creditors' meeting is convened, where the administrator decides to continue or suspend the debtor's business operations or commits any of the acts specified in Article 69 of this Law, it shall obtain the approval of the people's court.

Article 27. The administrator shall be diligent and faithful in performing its duties.

Article 28. The administrator may, with the approval of the people's court, engage necessary staff members. The remuneration of the administrator shall be determined by the people's court. Where the creditors' meeting has any objection to the remuneration of the administrator, it shall have the right to raise such objection with the people's court.

Article 29. The administrator shall not resign without justifiable reasons. Where the administrator applies to resign, it shall obtain the approval of the people's court before it may resign.

Chapter IV — Debtor's Property

Article 30. The debtor's property in a bankruptcy case includes all property belonging to the debtor at the time the bankruptcy application is accepted, as well as property acquired by the debtor during the period from the acceptance of the bankruptcy application to the conclusion of the bankruptcy proceedings.

Article 31. The people's court shall, within one year before the acceptance of a bankruptcy application, have the power to revoke any of the following acts involving the debtor's property:

(1) Transferring property without consideration;

(2) Conducting transactions at an obviously unreasonable price;

(3) Providing property security for an unsecured debt;

(4) Making early payment of debts not yet due; or

(5) Disclaiming creditors' rights.

Article 32. The people's court shall, within six months before the acceptance of a bankruptcy application, have the power to revoke any payment made by the debtor to an individual creditor where the debtor was

under the circumstances specified in the first paragraph of Article 2 of this Law, unless such payment was beneficial to the debtor's property.

Article 33. The following acts involving the debtor's property shall be invalid:

(1) Concealing or transferring property for the purpose of evading debts; and

(2) Fabricating debts or acknowledging untrue debts.

Article 34. Where any property that has been improperly obtained from the debtor's property as a result of any of the acts specified in Articles 31, 32, or 33 of this Law, the administrator shall have the right to recover such property.

Article 35. After the people's court accepts a bankruptcy application, where any contributor to the debtor has not yet fulfilled its capital contribution obligation, the administrator shall require such contributor to pay its subscribed capital contribution, irrespective of the time limit for capital contribution.

Article 36. Where the directors, supervisors, and senior managers of the debtor have obtained any income from the enterprise by taking advantage of their positions, the administrator shall recover such income.

Article 37. After the people's court accepts a bankruptcy application, the administrator may recover the pledged property or liened property of the debtor by paying off the relevant debts or providing a guarantee acceptable to the creditor. Where the amount of the debt paid or the guarantee provided by the administrator in the manner specified in the preceding paragraph is lower than the value of the pledged property or liened property at the time when such property is realized, the amount of the secured creditor's right shall be limited to the value of the debt repayment or guarantee.

Article 38. After the people's court accepts a bankruptcy application, the owner of any property possessed by the debtor but not owned by the debtor may recover such property from the administrator through the administrator, unless otherwise provided for by this Law.

Article 39. Where the people's court accepts a bankruptcy application while the seller has dispatched the subject matter of a sale to the debtor and the debtor has not yet received and paid the full price for the subject matter, the seller may take back the subject matter that is in transit. However, the administrator may pay the full price and request the seller to deliver the subject matter.

Article 40. A creditor that owes a debt to the debtor before the acceptance of the bankruptcy application may claim a set-off with the administrator. However, a set-off shall not be claimed under any of the following circumstances:

(1) Where the debtor's debtor acquires another's creditor's right against the debtor after the acceptance of the bankruptcy application;

(2) Where the debtor's debtor acquires a creditor's right against the debtor when the debtor is aware that it is unable to pay its debts as they fall due or there are circumstances for filing a bankruptcy application, unless the creditor's right is acquired in accordance with law or for justifiable reasons;

(3) Where the debtor's debtor, already aware of the circumstances for filing a bankruptcy application, assumes any debt against the debtor, unless the debt is assumed in accordance with law or for justifiable reasons; or

(4) Where the creditor of the debtor, already aware of the circumstances for filing a bankruptcy application, owes a debt to the debtor, unless the debt is owed in accordance with law or for justifiable reasons.

Chapter V — Bankruptcy Expenses and Community Debts

Article 41. The following expenses incurred after the people's court accepts a bankruptcy application shall constitute bankruptcy expenses:

(1) Litigation costs of the bankruptcy case;

(2) Expenses for the management, valuation, and distribution of the debtor's property;

(3) Remuneration of the administrator and expenses for the engagement of staff; and

(4) Other expenses.

Article 42. The following debts incurred after the people's court accepts a bankruptcy application shall constitute community debts:

(1) Debts arising from any contract that the administrator or the debtor has requested the other party to perform;

(2) Debts arising from negotiorum gestio over the debtor's property;

(3) Debts arising from the unjust enrichment of the debtor;

(4) Labor remuneration and social insurance premiums payable for the continuation of the debtor's business operations, and other debts arising therefrom;

(5) Debts arising from damage caused by the administrator or relevant staff members in the performance of their duties; and

(6) Debts arising from damage caused by the debtor's property to others.

Article 43. Bankruptcy expenses and community debts shall be paid off from the debtor's property at any time. Where the debtor's property is insufficient to pay off all bankruptcy expenses and community debts, the bankruptcy expenses shall be paid off first. Where the debtor's property is insufficient to pay off all bankruptcy expenses or all community debts, payment shall be made on a pro rata basis. Where the debtor's property is insufficient to pay the bankruptcy expenses, the administrator shall apply to the people's court for conclusion of the bankruptcy proceedings. In such a case, the people's court shall, within 15 days from the date of receipt of the application, rule to conclude the bankruptcy proceedings and make an announcement.

Chapter VI — Declaration of Creditors' Rights

Article 44. A creditor who holds a creditor's right against the debtor as of the date when the people's court accepts the bankruptcy application may exercise its rights in accordance with the procedures prescribed by this Law.

Article 45. The time limit for the declaration of creditors' rights shall be determined by the people's court after the acceptance of the bankruptcy application. The time limit for the declaration of creditors' rights shall be not less than 30 days and not more than three months, calculated from the date of publication of the announcement of acceptance of the bankruptcy application by the people's court.

Article 46. Interest on a creditor's right that has not yet fallen due shall cease to accrue as of the date of acceptance of the bankruptcy application. Interest on a creditor's right shall cease to be calculated as of the date of acceptance of the bankruptcy application.

Article 47. A conditional creditor's right or a creditor's right with a time limit, or a creditor's right in litigation or arbitration may be declared.

Article 48. A creditor shall declare its creditor's rights with the administrator within the time limit for the declaration of creditors' rights as determined by the people's court. The wages, medical treatment and disability benefits, and pensions owed by the debtor to its employees, the basic old-age insurance premiums and basic medical insurance premiums that shall be transferred to the employees' individual accounts, and the compensation that shall be paid to employees as required by laws and administrative regulations need not be declared. The administrator shall, upon investigation, compile a schedule of the said items and

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publish the same. Where an employee has any objection to the contents of the schedule, it may request the administrator to make corrections; where the administrator refuses to make corrections, the employee may bring an action with the people's court.

Article 49. When declaring a creditor's right, a creditor shall state in writing the amount of the creditor's right and whether there is any property security, and shall submit the relevant evidence. Where a creditor declares a joint and several creditor's right, it shall so state.

Article 50. A joint and several creditor may have one representative declare the creditor's right, or they may jointly declare the creditor's right. Where a joint and several creditor declares the creditor's right through a representative, it shall so state to the administrator.

Article 51. Where a debtor's guarantor or any other joint and several debtor has paid off the debts on behalf of the debtor, it may declare its creditor's right against the debtor to the extent of its right of recourse against the debtor. Where a debtor's guarantor or any other joint and several debtor has not yet paid off the debts on behalf of the debtor, it may declare its creditor's right against the debtor to the extent of its future right of recourse, unless the creditor has already declared all its creditor's rights against the administrator.

Article 52. Where several joint and several creditors have all declared their creditor's rights, distribution shall be made on a pro rata basis. Where a joint and several creditor has not yet paid off the debts on behalf of the debtor, its creditor's right declared in advance shall be subject to the creditor's rights that have already been declared.

Article 53. Where the administrator or the debtor rescinds a contract in accordance with the provisions of this Law, the other party to the contract may declare its creditor's right to the extent of the damages arising from such rescission.

Article 54. Where the debtor is the principal in a negotiorum gestio relationship, and the gestor's right against the debtor arises after the acceptance of the bankruptcy application, the gestor may declare its creditor's right as a community debt. Where such right arises before the acceptance of the application, it may be declared as an ordinary creditor's right.

Article 55. Where the debtor is the principal in an entrusted contract and the entrusted agent has, without knowing that the people's court has accepted the bankruptcy application concerning the debtor, continued to handle the entrusted affairs, the agent's right to claim against the debtor arising from the entrusted affairs may be declared as a community debt. Where the agent knew or should have known that the people's court has accepted the bankruptcy application, the right may be declared as an ordinary creditor's right.

Article 56. A creditor that fails to declare its creditor's rights within the time limit for the declaration of creditors' rights as determined by the people's court may make a supplementary declaration before the final distribution of the bankruptcy property. However, distribution already made shall no longer be supplemented. The expenses incurred for the examination and confirmation of a supplementary declared creditor's right shall be borne by the supplementary declarant.

Article 57. The administrator shall, upon receipt of the materials for the declaration of a creditor's right, register the same, conduct examination of the declared creditor's right, compile a schedule of creditors' rights, and keep the materials for the declaration for inspection by interested parties. The schedule of creditors' rights shall be kept by the administrator for the duration of the bankruptcy proceedings.

Article 58. The schedule of creditors' rights compiled in accordance with Article 57 of this Law shall be submitted to the first creditors' meeting for verification. Where a debtor or creditor has no objection to the contents of the schedule of creditors' rights, the people's court shall rule to confirm the same. Where a debtor or creditor has any objection to the schedule of creditors' rights, it may bring an action with the people's court that has accepted the bankruptcy application.

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Chapter VII — Creditors' Meeting

Article 59. Creditors who have declared their creditors' rights in accordance with law shall be members of the creditors' meeting and shall have the right to participate in the creditors' meeting and to vote. A creditor whose creditor's right has not yet been confirmed may not exercise its voting right, unless the people's court is able to temporarily determine the amount of its voting right for its exercise of the voting right.

Article 60. The creditors' meeting shall have a chairperson, who shall be designated by the people's court from among the creditors with voting rights. The chairperson of the creditors' meeting shall preside over the creditors' meeting.

Article 61. The creditors' meeting shall exercise the following functions and powers:

(1) Verifying creditors' rights;

(2) Applying to the people's court for replacement of the administrator and reviewing the administrator's expenses and remuneration;

(3) Supervising the administrator;

(4) Selecting and replacing members of the creditors' committee;

(5) Deciding on whether to continue or suspend the debtor's business operations;

(6) Adopting a reorganization plan;

(7) Adopting a settlement agreement;

(8) Adopting a plan for the management of the debtor's property;

(9) Adopting a plan for the realization of the bankruptcy property; and

(10) Adopting a plan for the distribution of the bankruptcy property.

Article 62. The first creditors' meeting shall be convened by the people's court and shall be held within 15 days from the date of expiration of the time limit for the declaration of creditors' rights. Subsequent creditors' meetings shall be convened when the people's court deems it necessary, or when proposed by the administrator, the creditors' committee, or a creditor whose aggregate amount of creditors' rights accounts for one-quarter or more of the total amount of creditors' rights, and the chairperson of the creditors' meeting presides over the meeting.

Article 63. The administrator shall notify known creditors of the convening of a creditors' meeting 15 days in advance.

Article 64. A resolution of the creditors' meeting shall be adopted by a majority of the creditors present at the meeting who have the right to vote and whose aggregate amount of creditors' rights represents more than half of the total amount of unsecured creditors' rights, unless otherwise provided for by this Law. A resolution of the creditors' meeting shall be binding on all creditors.

Article 65. Where the creditors' meeting fails to adopt a resolution on any of the matters specified in subparagraphs (8) and (9) of Article 61 of this Law, the people's court shall make a ruling. Where the people's court makes a ruling on any of the matters specified in the preceding paragraph, it shall make an announcement at the creditors' meeting or notify the creditors in a timely manner.

Article 66. Where a creditor believes that a resolution adopted by the creditors' meeting violates any provision of law or impairs its interests, it may, within 15 days from the date on which the creditors' meeting adopts the resolution, request the people's court to rule to revoke the resolution and order the creditors' meeting to adopt a new resolution in accordance with law.

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Article 67. The creditors' meeting may decide to establish a creditors' committee. The creditors' committee shall be composed of creditors' representatives selected by the creditors' meeting and one employee representative or trade union representative of the debtor. The members of the creditors' committee shall not exceed nine persons. The members of the creditors' committee shall be confirmed in writing by the people's court.

Article 68. The creditors' committee shall exercise the following functions and powers:

(1) Supervising the management and disposal of the debtor's property;

(2) Supervising the distribution of the bankruptcy property;

(3) Proposing the convening of a creditors' meeting; and

(4) Performing other functions and powers entrusted by the creditors' meeting.

Article 69. When the administrator performs the following acts, it shall report to the creditors' committee in a timely manner:

(1) Transferring any interest in land or building;

(2) Transferring mineral rights, intellectual property rights, or other property rights;

(3) Disposing of all inventory;

(4) Granting a loan;

(5) Creating a security interest over property;

(6) Transferring creditor's rights or securities;

(7) Performing any contract that has not been fully performed by both the debtor and the other party;

(8) Disclaiming rights;

(9) Recovering any secured property or liened property; or

(10) Performing any other act that has a material impact on the interests of creditors.

Where no creditors' committee has been established, the administrator shall, when performing the acts specified in the preceding paragraph, report to the people's court in a timely manner.

Chapter VIII — Reorganization

Section 1: Application for Reorganization and Period of Reorganization

Article 70. A debtor or a creditor may, in accordance with the provisions of this Law, directly apply to the people's court for reorganization of the debtor. Where a creditor applies for bankruptcy liquidation of the debtor, after the people's court accepts the bankruptcy application and before the debtor is declared bankrupt, the debtor or a contributor whose capital contribution accounts for one-tenth or more of the debtor's registered capital may apply to the people's court for reorganization.

Article 71. The people's court shall, upon examination, rule to permit the reorganization of the debtor where it is satisfied that the application meets the provisions of this Law, and make an announcement.

Article 72. The period of reorganization shall commence from the date on which the people's court rules that the debtor shall undergo reorganization and end on the date on which the reorganization proceedings are terminated.

Article 73. During the period of reorganization, the debtor may, upon application by the debtor and approval by the people's court, manage its property and business affairs on its own under the supervision of the administrator. In such a case, the administrator that has already taken over the debtor's property and

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business affairs shall transfer the debtor's property and business affairs to the debtor, and the administrator's functions and powers as prescribed in this Law shall be exercised by the debtor.

Article 74. Where the administrator is responsible for managing the debtor's property and business affairs, the administrator may engage the debtor's management personnel to be responsible for business affairs.

Article 75. During the period of reorganization, the exercise of a security interest over specific property of the debtor shall be suspended. However, where the secured property is likely to be damaged or its value to be markedly reduced, thereby prejudicing the rights of the secured creditor, the secured creditor may apply to the people's court for restoration of the exercise of the security interest.

Article 76. During the period of reorganization, the owner of any property possessed by the debtor but not owned by the debtor may recover such property in accordance with the conditions agreed upon in advance.

Article 77. During the period of reorganization, the following persons shall not request distribution of the proceeds of investment:

(1) The debtor's contributors; and

(2) The debtor's directors, supervisors, and senior managers may not transfer to a third party the equity interests of the debtor held by them, unless with the consent of the people's court.

Article 78. Under any of the following circumstances during the period of reorganization, the people's court shall, upon the application of the administrator or any interested party, rule to terminate the reorganization proceedings and declare the debtor bankrupt:

(1) The debtor's business and financial conditions continue to deteriorate, leaving no possibility of recovery;

(2) The debtor commits any act of fraud, maliciously reducing the debtor's property, or any other act obviously prejudicial to creditors;

(3) The debtor's acts render the administrator unable to perform its duties; or

(4) The debtor fails to submit a draft reorganization plan within the prescribed time limit.

Section 2: Formulation and Approval of Reorganization Plan

Article 79. The debtor or the administrator shall, within six months from the date on which the people's court rules that the debtor shall undergo reorganization, submit a draft reorganization plan to the people's court and the creditors' meeting simultaneously. Upon expiration of the said period, the people's court may, upon the request of the debtor or the administrator and for justifiable reasons, grant an extension of three months.

Article 80. Where the debtor manages its property and business affairs on its own, the draft reorganization plan shall be formulated by the debtor. Where the administrator is responsible for managing the property and business affairs, the draft reorganization plan shall be formulated by the administrator.

Article 81. A draft reorganization plan shall include the following:

(1) The debtor's plan for business operations;

(2) The classification of creditors' rights;

(3) The plan for adjusting and paying off creditors' rights;

(4) The period for implementing the reorganization plan;

(5) The period for supervising the implementation of the reorganization plan; and

(6) Other plans beneficial to the debtor's reorganization.

Article 82. Creditors holding the following categories of creditors' rights shall attend the discussion of the draft reorganization plan and vote thereon in groups according to the following categories of creditors' rights:

(1) Creditors' rights secured by specific property of the debtor;

(2) Labor remuneration, social insurance premiums, and other employee creditors' rights owed by the debtor;

(3) Taxes owed by the debtor; and

(4) Ordinary creditors' rights.

Article 83. The draft reorganization plan shall not provide for any reduction in the social insurance premiums owed by the debtor, other than those that shall be transferred to employees' individual accounts as prescribed in subparagraph (2) of Article 82 of this Law; and the payment of such premiums shall not be less favorable than as required by law.

Article 84. The people's court shall convene a creditors' meeting within 30 days from the date of receipt of the draft reorganization plan to vote on the draft reorganization plan. Where a voting group attending the creditors' meeting adopts the draft reorganization plan by a majority of the creditors present in that group whose aggregate amount of creditors' rights accounts for two-thirds or more of the total amount of creditors' rights in that group, the draft reorganization plan shall be deemed to have been adopted by that group. The debtor or the administrator shall explain the draft reorganization plan at the creditors' meeting and answer inquiries.

Article 85. The debtor's employee representatives and trade union representatives shall attend the creditors' meeting and express their opinions on the draft reorganization plan.

Article 86. Where all voting groups have adopted the draft reorganization plan, the reorganization plan shall be deemed to have been adopted. The debtor or the administrator shall, within 10 days from the date of adoption of the reorganization plan, file an application with the people's court for approval of the reorganization plan.

Article 87. Where a voting group fails to adopt the draft reorganization plan but the draft reorganization plan meets the conditions set out in this Article, the debtor or the administrator may apply to the people's court for approval of the draft reorganization plan. Upon examination, where the people's court is of the opinion that the draft reorganization plan meets the conditions provided for in this Article, it shall, within 30 days from the date of receipt of the application, rule to approve the draft reorganization plan, terminate the reorganization proceedings, and make an announcement. The conditions referred to in the preceding paragraph are:

(1) In the case of the voting group for creditors' rights secured by specific property, the secured creditor's right will be fully paid, or the secured creditor's right will not be materially impaired, or the voting group has adopted the draft reorganization plan;

(2) In the case of the voting group for employee creditors' rights and tax creditors' rights, the employee creditors' rights and tax creditors' rights will be fully paid, or the corresponding voting group has adopted the draft reorganization plan;

(3) In the case of the voting group for ordinary creditors' rights, the amount of distribution to be received by ordinary creditors under the draft reorganization plan is not less than the amount they would receive upon liquidation under the bankruptcy liquidation procedures, or the voting group has adopted the draft reorganization plan;

(4) The draft reorganization plan treats fairly all members of the same voting group, and the order of liquidation for paying off creditors' rights does not violate the provisions of Article 113 of this Law;

(5) The debtor's business plan is feasible; and

(6) The draft reorganization plan has been approved by the debtor's contributors whose capital contribution accounts for two-thirds or more of the debtor's registered capital, where the draft reorganization plan involves any matter relating to the adjustment of the debtor's contributors' rights and interests.

Article 88. Where the draft reorganization plan is not adopted and is not approved in accordance with Article 87, or where the draft reorganization plan has been adopted but has not been approved, the people's court shall rule to terminate the reorganization proceedings and declare the debtor bankrupt.

Section 3: Implementation of Reorganization Plan

Article 89. The reorganization plan shall be implemented by the debtor. After the people's court rules to approve the reorganization plan, the administrator that has taken over the property and business affairs shall transfer the property and business affairs to the debtor.

Article 90. After the people's court rules to approve the reorganization plan, the administrator shall supervise the implementation of the reorganization plan. During the supervision period, the debtor shall report to the administrator on the implementation of the reorganization plan and its financial status.

Article 91. Upon expiration of the supervision period, the administrator shall submit a supervision report to the people's court. The interested parties shall have the right to inspect the supervision report. Upon application by the administrator, the people's court may rule to extend the supervision period of the reorganization plan.

Article 92. The reorganization plan approved by the people's court shall be binding on the debtor and all creditors. Creditors who have not declared their creditors' rights in accordance with the provisions of this Law shall not exercise their rights during the implementation of the reorganization plan. After the implementation of the reorganization plan is completed, such creditors may exercise their rights in accordance with the conditions for paying off claims of the same category as stipulated in the reorganization plan. The rights of creditors against the debtor's guarantor and other joint and several debtors shall not be affected by the reorganization plan.

Article 93. Where the debtor is unable to or fails to implement the reorganization plan, the people's court shall, upon the request of the administrator or any interested party, rule to terminate the implementation of the reorganization plan and declare the debtor bankrupt. Where the people's court rules to terminate the implementation of the reorganization plan, the commitments made by creditors in the reorganization plan regarding the adjustment of creditors' rights shall cease to have effect. The security provided by creditors for the adjustment of creditors' rights shall continue to be effective. However, the portion of creditors' rights paid off in accordance with the reorganization plan shall remain effective, and the remaining creditors' rights shall be treated as bankruptcy creditors' rights. The creditor who has received payment as set forth in the preceding paragraph may participate in the distribution of bankruptcy property only after other creditors in the same distribution order have received the same proportion of payment.

Article 94. Upon completion of the implementation of the reorganization plan, the debtor shall, in accordance with the reorganization plan, be relieved of its liability for the portion of debts reduced or exempted.

Chapter IX — Settlement

Article 95. The debtor may, in accordance with the provisions of this Law, directly apply to the people's court for settlement. The debtor may also apply to the people's court for settlement after the people's court has accepted a bankruptcy application but before the debtor is declared bankrupt. Where the debtor applies for settlement, it shall submit a draft settlement agreement.

Article 96. The people's court shall, upon examination, rule to permit settlement and make an announcement where it is satisfied that the settlement application meets the provisions of this Law, and convene a creditors' meeting to discuss the draft settlement agreement. Where the debtor's settlement application is filed in a case in which the debtor has been ruled to undergo reorganization, the relevant provisions regarding the period of reorganization shall cease to apply.

Article 97. A draft settlement agreement shall be adopted by the creditors whose aggregate amount of unsecured creditors' rights accounts for two-thirds or more of the total amount of unsecured creditors' rights.

Article 98. Where the creditors' meeting adopts a settlement agreement, the people's court shall rule to approve the same, terminate the settlement proceedings, and make an announcement. The administrator shall transfer the property and business affairs to the debtor and submit a report on the performance of its duties to the people's court.

Article 99. Where a draft settlement agreement is not adopted by the creditors' meeting, or a settlement agreement adopted by the creditors' meeting has not been approved by the people's court, the people's court shall rule to terminate the settlement proceedings and declare the debtor bankrupt.

Article 100. A settlement agreement approved by the people's court shall be binding on the debtor and all unsecured creditors. The rights of unsecured creditors against the debtor's guarantor and other joint and several debtors shall not be affected by the settlement agreement.

Article 101. The rights of creditors whose claims are secured by specific property shall not be affected by the settlement agreement. Such creditors may exercise their rights from the date on which the people's court rules to permit settlement.

Article 102. The debtor shall implement the settlement agreement. During the implementation of the settlement agreement, creditors may not exercise their rights individually; however, this shall not affect the exercise of rights by secured creditors with respect to the specific property.

Article 103. Where a debtor is unable to or fails to implement a settlement agreement, the people's court shall, upon the application of a settlement creditor, rule to terminate the implementation of the settlement agreement and declare the debtor bankrupt. After the people's court rules to terminate the implementation of a settlement agreement, the commitments made by settlement creditors regarding the adjustment of creditors' rights in the settlement agreement shall cease to have effect. The portion of creditors' rights paid off in accordance with the settlement agreement shall remain effective, and the remaining creditors' rights shall be treated as bankruptcy creditors' rights. The settlement creditor who has received payment as set forth in the preceding paragraph may participate in the distribution of bankruptcy property only after other creditors in the same distribution order have received the same proportion of payment.

Article 104. Under any of the following circumstances, the people's court shall rule to invalidate the settlement agreement and declare the debtor bankrupt:

(1) The debtor obtained the settlement agreement by fraud or other illegal means; or

(2) The settlement agreement was adopted in violation of law.

Where a settlement agreement is ruled to be invalid under any of the circumstances specified in the preceding paragraph, the settlement creditors who have received payment as a result of the implementation of the settlement agreement shall return the payment to the extent that the payment received by them exceeds the portion they would have received under the same order of distribution.

Article 105. Where, after the people's court accepts a bankruptcy application, the debtor and all creditors reach an agreement on settlement of creditors' rights and debts on their own, they may request the people's court to rule to approve the same and conclude the bankruptcy proceedings.

Article 106. After the implementation of a settlement agreement is completed, the debtor shall, in accordance with the settlement agreement, be relieved of its liability for the portion of debts reduced or exempted.

Chapter X — Bankruptcy Liquidation

Article 107. The people's court shall, in accordance with the provisions of this Law, rule to declare the debtor bankrupt. Where the debtor is declared bankrupt, the debtor shall be referred to as the bankruptcy debtor,

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the debtor's property shall be referred to as the bankruptcy property, and the creditor's rights held by the creditors against the debtor as of the date when the people's court accepts the bankruptcy application shall be referred to as bankruptcy creditors' rights.

Article 108. Before the bankruptcy debtor is declared bankrupt, under any of the following circumstances, the people's court shall rule to conclude the bankruptcy proceedings and make an announcement:

(1) A third party provides sufficient security for the debtor, or the debtor pays off all its debts as they fall due; or

(2) The debtor has paid off all its debts as they fall due.

Article 109. A creditor whose creditor's right is secured by specific property of the bankruptcy debtor shall have the right to receive priority payment from such specific property.

Article 110. A creditor exercising the right specified in Article 109 of this Law shall be treated as an ordinary creditor with respect to the portion of its creditor's right that has not been fully satisfied from the specific property.

Article 111. The administrator shall, in a timely manner, prepare a plan for the realization of the bankruptcy property and submit the same to the creditors' meeting for discussion. The administrator shall, in accordance with the plan for the realization of the bankruptcy property adopted by the creditors' meeting or a plan ruled by the people's court in accordance with the provisions of Article 65 of this Law, realize the bankruptcy property in a timely manner.

Article 112. The realization of the bankruptcy property shall be conducted by auction, unless a resolution of the creditors' meeting provides otherwise. An enterprise in bankruptcy may be realized in whole or in part. Where an enterprise is realized in whole, its intangible assets and other property may be realized separately. Assets that may not be auctioned or whose transfer is restricted in accordance with State regulations shall be disposed of in accordance with the method prescribed by the State.

Article 113. The bankruptcy property shall, after the bankruptcy expenses and community debts have been paid off first, be used to pay off debts in the following order:

(1) Wages, medical treatment and disability benefits, and pensions owed by the bankruptcy debtor to its employees, the basic old-age insurance premiums and basic medical insurance premiums that shall be transferred to the employees' individual accounts, and the compensation that shall be paid to employees as required by laws and administrative regulations;

(2) Social insurance premiums, other than those specified in the preceding subparagraph, owed by the bankruptcy debtor and taxes owed; and

(3) Ordinary bankruptcy creditors' rights.

Where the bankruptcy property is insufficient to satisfy all the claims in the same order, distribution shall be made on a pro rata basis.

Article 114. The distribution of the bankruptcy property shall be made in monetary form, unless a resolution of the creditors' meeting provides otherwise.

Article 115. The administrator shall, in a timely manner, prepare a plan for the distribution of the bankruptcy property and submit the same to the creditors' meeting for discussion. The plan for the distribution of the bankruptcy property shall state the following:

(1) The names or titles and domiciles of the creditors participating in the distribution of the bankruptcy property;

(2) The amount of creditors' rights participating in the distribution;

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(3) The amount of the bankruptcy property available for distribution;

(4) The order and proportion of distribution of the bankruptcy property; and

(5) The method of distribution of the bankruptcy property.

After the plan for the distribution of the bankruptcy property is adopted by the creditors' meeting, the administrator shall submit the plan to the people's court for approval before implementation.

Article 116. The administrator shall implement the distribution in accordance with the plan for the distribution of the bankruptcy property approved by the people's court. The administrator may make distribution more than once. In the case of multiple distributions, the administrator shall announce the amount of the bankruptcy property to be distributed and the amount of creditors' rights in the current distribution.

Article 117. In the distribution of the bankruptcy property, a creditor holding a conditional creditor's right with a condition precedent or a creditor holding a creditor's right whose time of payment has not yet arrived, the amount of distribution to which it is entitled shall be deposited. The amount deposited as specified in the preceding paragraph shall, if the condition is satisfied or the time of payment has arrived during the period from the final distribution announcement date, be delivered to the creditor; if the condition is not satisfied or the time of payment has not arrived, the amount shall be distributed to other creditors.

Article 118. Where the amount of distribution to a creditor is not claimed within two months from the date of the final distribution announcement, it shall be deemed to have been disclaimed. The administrator or the people's court shall deposit the amount of distribution that has been disclaimed in the State Treasury.

Article 119. Where a creditor's right is in litigation or arbitration at the time of distribution of the bankruptcy property, the administrator shall deposit the amount of distribution to which such creditor is entitled. Where the creditor's right has not been confirmed within two years from the date of conclusion of the bankruptcy proceedings, the amount deposited shall be distributed to other creditors.

Article 120. Where the bankruptcy debtor has no property available for distribution, the administrator shall request the people's court to rule to conclude the bankruptcy proceedings. After the administrator has completed the final distribution, it shall submit a report on the distribution of the bankruptcy property in a timely manner and request the people's court to rule to conclude the bankruptcy proceedings.

Article 121. The administrator shall, within 10 days from the date of conclusion of the bankruptcy proceedings, go through the formalities for the cancellation of registration of the bankruptcy debtor with the original registration authority on the strength of the ruling of the people's court on the conclusion of the bankruptcy proceedings.

Article 122. The administrator shall cease to perform its duties on the day after the cancellation of registration has been completed, unless litigation or arbitration remains pending.

Article 123. Within two years after the conclusion of the bankruptcy proceedings, under any of the following circumstances, creditors may request the people's court to make supplementary distribution in accordance with the plan for the distribution of the bankruptcy property:

(1) Where property that shall be recovered in accordance with the provisions of Articles 31, 32, 33, and 36 of this Law is discovered; or

(2) Where other property of the bankruptcy debtor that should be distributed is discovered.

Where the discovered property is insufficient to cover the expenses for distribution, no supplementary distribution shall be made, and the administrator shall submit the property to the State Treasury.

Article 124. The guarantor of the bankruptcy debtor and other joint and several debtors shall, after the conclusion of the bankruptcy proceedings, continue to bear liability for payment of those creditors' rights that have not been satisfied in accordance with the bankruptcy liquidation procedures.

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Chapter XI — Legal Liability

Article 125. Where any director, supervisor, or senior manager of an enterprise violates the duty of loyalty or the duty of diligence, thereby causing the enterprise to become bankrupt, the same shall bear civil liability in accordance with law. The person subject to the civil liability prescribed in the preceding paragraph shall be disqualified from serving as a director, supervisor, or senior manager of any enterprise within three years from the date of conclusion of the bankruptcy proceedings.

Article 126. Where any of the relevant personnel obliged under Article 15 of this Law violates the provisions of the said Article by, without good cause, refusing to appear before or answer inquiries from the people's court or the administrator, the people's court may impose a fine in accordance with law, and may summon such person to appear.

Article 127. Where the debtor fails to submit, or submits untruthfully, the financial statements or other materials as required by this Law, thereby impairing the interests of creditors, the people's court may impose a fine on the directly responsible person in accordance with law. Where the debtor fails to hand over property, seals, accounting books, documents, or other materials to the administrator, or fabricates or destroys any relevant evidential materials relating to property, thus rendering the debtor's financial status unclear, the people's court may impose a fine on the directly responsible person in accordance with law.

Article 128. Where the debtor commits any of the acts specified in Articles 31, 32, and 33 of this Law, thereby impairing the interests of creditors, the legal representative of the debtor and other directly responsible persons shall bear liability for compensation in accordance with law.

Article 129. Where any of the relevant personnel of the debtor, in violation of the provisions of this Law, leaves his or her place of domicile without authorization, the people's court may impose a fine or detention, and may also issue a warning.

Article 130. Where the administrator fails to perform its duties diligently and faithfully in accordance with the provisions of this Law, the people's court may impose a fine in accordance with law. Where losses are caused to the debtor, creditors, or a third party, the administrator shall bear liability for compensation in accordance with law. Where the administrator's act constitutes a crime, criminal liability shall be pursued in accordance with law.

Article 131. Where any act in violation of the provisions of this Law constitutes a crime, criminal liability shall be pursued in accordance with law.

Chapter XII — Supplementary Provisions

Article 132. Where the debts specified in subparagraph (1) of Article 113 of this Law that were owed by the debtor before the date of promulgation of this Law remain unpaid after the implementation of this Law, the provisions of subparagraph (1) of Article 113 shall apply, and priority shall also be given over the secured creditors' rights specified in Article 109 of this Law, but only to the extent of the specific property against which the security interest was created. After the secured creditor's right has been satisfied from such specific property, any surplus shall be used to pay off the debts specified in subparagraph (1) of Article 113 of this Law that were owed before the date of promulgation of this Law.

Article 133. The bankruptcy of State-owned enterprises that existed before the implementation of this Law and for which special measures for a transitional period are provided for by the State Council shall be handled in accordance with the relevant provisions of the State Council.

Article 134. Where a commercial bank, securities company, insurance company, or any other financial institution falls under the circumstances specified in Article 2 of this Law, the financial regulatory authority under the State Council may file an application with the people's court for reorganization or bankruptcy liquidation of such financial institution. Where the financial regulatory authority under the State Council takes

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over or provides a trusteeship (entrusted management) arrangement for a financial institution under material business risk in accordance with law, it may apply to the people's court for a stay of any civil litigation proceedings or enforcement proceedings in which such financial institution is the defendant or the person subject to enforcement. Where the State Council has other provisions on the implementation of bankruptcy by financial institutions, those provisions shall apply.

Article 135. Where any organization other than an enterprise legal person falls under bankruptcy liquidation, the bankruptcy liquidation procedures prescribed in this Law may be applied with reference to this Law.

Article 136. This Law shall enter into force as of 1 June 2007. The Enterprise Bankruptcy Law of the People's Republic of China (For Trial Implementation) shall be repealed simultaneously.

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