

Enterprise State-Owned Assets Law of the PRC

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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 safeguarding the state-owned assets of enterprises, protecting the lawful rights and interests of the owners of state-owned assets, preventing the loss of state-owned assets, consolidating and developing the state-owned economy, and promoting the

development of the socialist market economy.

Article 2 — For the purposes of this Law, "state-owned assets of enterprises" (hereinafter referred to as "state-owned assets") means rights and interests formed by the state's investment of various forms of capital in enterprises.

Article 3 — State-owned assets are owned by the state, that is, by the entire people. The State Council shall exercise the ownership rights over state-owned assets on behalf of the state.

Article 4 — The State Council and the local people's governments shall, in accordance with the provisions of laws and administrative regulations, respectively perform the duties of investors on behalf of the state and enjoy the rights and interests of investors in state-funded enterprises.

The State Council shall determine the investor institutions for large-scale state-funded enterprises related to the lifeline of the national economy and national security, and for state-funded enterprises in important infrastructure and important natural resources and other fields. For other state-funded enterprises, local people's governments shall determine the investor institutions according to the principle of hierarchical administration.

Article 5 — For the purposes of this Law, "state-funded enterprises" means wholly state-funded enterprises or companies and enterprises or companies in which the state has made capital contributions and holds a controlling or participating interest.

Article 6 — The State Council and local people's governments shall, in accordance with the principle of separating government administration from enterprise management, separating public administration functions from state-owned asset investor functions, and separating government from capital, not interfere with the independent operation of enterprises in accordance with the law.

Article 7 — The state shall take measures to promote the centralization of state-owned capital in important industries and key areas related to the lifeline of the national economy and national security, optimize the layout and structure of the state-owned economy, promote the reform and development of state-owned enterprises, enhance the economic vitality, control, and influence of the state-owned economy.

Article 8 — The state shall establish and improve a state-owned asset management and supervision system that is compatible with the needs of the development of the socialist market economy, establish and improve a system for maintaining and increasing the value of state-owned assets, and develop and expand the state-owned economy.

Article 9 — The state shall establish and improve a supervision system for state-owned asset monitoring and shall guarantee and improve the systems for state-owned asset statistics, auditing, and financial supervision.

Chapter II — Investor Institutions

Article 10 — The State-owned Assets Supervision and Administration Commission of the State Council and the state-owned assets supervision and administration institutions of local people's governments shall, in accordance with the authorization of the people's governments at the corresponding levels, perform the duties of investors on behalf of the people's governments at the corresponding levels with respect to state-funded enterprises.

The State Council and local people's governments may, where necessary, authorize other departments or institutions to perform the duties of investors on behalf of the people's governments at the corresponding levels with respect to state-funded enterprises.

Article 11 — The investor institutions performing the duties of investors shall enjoy the rights to enjoy asset returns, participate in major decision-making, and select managers of state-funded enterprises in accordance with the law.

Investor institutions shall formulate or participate in the formulation of the articles of association of state-funded enterprises.

Article 12 — The investor institutions performing the duties of investors shall, in accordance with laws and administrative regulations, perform the duties of investors and protect the rights and interests of investors.

Investor institutions shall safeguard the rights enjoyed by state-funded enterprises as market entities and shall not interfere with the business activities of enterprises except by performing the duties of investors in accordance with the law.

Article 13 — The investor institutions shall, in accordance with the provisions of the state, regularly report to the people's governments at the corresponding levels on the total volume, structure, changes in, and income from the state-owned assets and other relevant information.

Article 14 — When investor institutions need to change the matters for which they perform investor duties, they shall follow relevant procedures and go through the relevant formalities in accordance with the law.

Chapter III — State-Funded Enterprises

Article 15 — State-funded enterprises shall enjoy rights such as the right to possess, use, benefit from, and dispose of their legal person property, including the state-owned assets invested by the state, and shall bear civil liabilities independently with their entire property in accordance with the law.

Article 16 — State-funded enterprises shall abide by laws and administrative regulations in their business activities, strengthen business management, improve economic efficiency, accept the supervision and administration performed by the people's governments and their relevant departments and institutions in accordance with the law, accept the supervision of the public, bear social responsibilities, and be responsible to their investors.

State-funded enterprises shall establish and improve their internal oversight and risk control mechanisms in accordance with the law.

Article 17 — State-funded enterprises shall, in accordance with the provisions of the state, establish and improve their financial and accounting systems, and shall not establish any account books other than the legally prescribed account books.

State-funded enterprises shall truthfully provide information on the current condition of their assets and financial position to their investors in accordance with the provisions of the state.

Article 18 — Where a wholly state-funded enterprise, wholly state-funded company, or state-capital controlling company is established, it shall go through business registration with the company registration authority in accordance with the law. The company registration authority shall indicate in the business license matters such as the state-owned asset investor and the state-owned capital contribution.

Chapter IV — Selection and Assessment of State-Funded Enterprise Managers

Article 19 — The investor institutions performing the duties of investors shall appoint or remove the principal responsible persons of wholly state-funded enterprises, the chairman and vice-chairman of the board of directors, members of the board of directors, chairman of the board of supervisors, and members of the board of supervisors of wholly state-funded companies in accordance with the law.

Investor institutions performing the duties of investors shall propose the candidates for the general manager, deputy general manager, and persons in charge of finance of wholly state-funded companies to the board of directors of such companies.

Article 20 — The investor institutions performing the duties of investors shall, in accordance with the provisions of the state, appoint shareholder representatives to state-capital controlling companies and

state-capital participating companies.

Article 21 — The state shall establish and improve an assessment system for the managers of state-funded enterprises. The investor institutions shall assess the managers appointed by them and determine their remuneration in accordance with the assessment results.

Article 22 — The principal responsible persons and other managers of state-funded enterprises shall not concurrently hold positions in other enterprises, public institutions, or social organizations without the consent of the investor institutions.

Chapter V — Major Matters Involving State-Owned Assets

Article 23 — Major matters of wholly state-funded enterprises and wholly state-funded companies, such as merger, division, listing, increase or decrease of registered capital, issuance of bonds, distribution of profits, dissolution, and application for bankruptcy, shall be decided by the investor institutions.

Article 24 — Major matters of wholly state-funded enterprises and wholly state-funded companies, such as enterprise restructuring, formulation of development strategies and plans, major investments, and transfer of major property, shall be reported to the investor institutions for approval in accordance with the provisions of the state.

Article 25 — The transfer of state-owned assets shall be carried out in accordance with the law through legally established property rights trading venues, following the principles of openness, fairness, and impartiality, and in accordance with the provisions of laws and administrative regulations on the administration of state-owned assets transactions.

Article 26 — The restructuring of wholly state-funded enterprises, wholly state-funded companies, and state-capital controlling companies shall comply with the provisions of laws and administrative regulations, formulate restructuring plans, carry out asset verification, financial auditing, and asset valuation, and accurately define and verify assets.

Article 27 — The state shall establish a property right registration system for state-owned assets. State-funded enterprises shall apply for registration of the property rights of state-owned assets they possess, and investor institutions shall issue property right registration certificates on a regular basis.

Article 28 — State-funded enterprises shall conduct asset valuation for their relevant assets in accordance with the provisions of the state in cases of enterprise restructuring, merger, division, transfer of major property, investment with non-monetary property, liquidation, and other circumstances prescribed by laws, administrative regulations, and the provisions of the State Council.

Article 29 — State-funded enterprises shall, in accordance with the provisions of the state, make provisions for asset impairment, write off bad debts, and report such matters to the investor institutions for filing.

Chapter VI — State-Owned Capital Operating Budget

Article 30 — The state shall establish and improve a state-owned capital operating budget system and implement budget management over the income and expenditure of state-owned capital.

Article 31 — Income from state-owned capital shall include the following:

- (1) Profits turned over by state-funded enterprises;
- (2) Income from the transfer of property rights of state-owned assets of enterprises;
- (3) Net income from the liquidation of state-funded enterprises;
- (4) Other income from state-owned capital.

Article 32 — Expenditure from state-owned capital operating budgets shall be arranged in accordance with the needs of the development of the state-owned economy, the needs of the structural adjustment of the state-owned economy, and the relevant provisions of the state on budget management.

Chapter VII — Supervision Over State-Owned Assets

Article 33 — The standing committees of people's congresses at all levels shall, by hearing and deliberating special work reports of the people's governments at the corresponding levels, organizing law enforcement inspections, and other means, exercise supervisory powers over the performance of duties by the people's governments at the corresponding levels in respect of the supervision and administration of state-owned assets in accordance with the law.

Article 34 — The State Council and local people's governments shall regularly report to the standing committees of the people's congresses at the corresponding levels on the supervision and administration of state-owned assets and the maintenance and increase of the value of state-owned assets.

Article 35 — Audit institutions of the people's governments at or above the county level shall, in accordance with the law, exercise audit supervision over the implementation of the state-owned capital operating budget and over state-funded enterprises, investor institutions, and the persons in charge of state-funded enterprises.

Article 36 — The public shall have the right to supervise the supervision and administration of state-owned assets. All entities and individuals shall have the right to report and file complaints against acts causing the loss of state-owned assets.

Chapter VIII — Legal Liability

Article 37 — Where an investor institution and its staff commit any of the following acts, the directly responsible person in charge and other directly responsible persons shall be given sanctions in accordance with the law:

- (1) Failing to perform statutory investor duties in accordance with the law and causing the loss of state-owned assets;
- (2) Illegally interfering with the production and operation activities of enterprises and causing the loss of state-owned assets.

Article 38 — Where a person in charge of a state-funded enterprise causes the loss of state-owned assets due to abuse of power or dereliction of duty, he or she shall bear compensation liability in accordance with the law, and if the case constitutes a crime, criminal liability shall be pursued in accordance with the law.

Article 39 — Where a state-funded enterprise or its manager commits any of the following acts, the directly responsible person in charge and other directly responsible persons shall be given sanctions in accordance with the law; if the case constitutes a crime, criminal liability shall be pursued in accordance with the law:

- (1) Transferring or disposing of state-owned assets without authorization in violation of the provisions of laws and administrative regulations;
- (2) Concealing, dividing, or encroaching upon state-owned assets;
- (3) Failing to carry out asset verification, financial auditing, asset valuation, or property rights registration as required;
- (4) Other acts causing loss of state-owned assets in violation of the provisions of laws and administrative regulations.

Chapter IX — Supplementary Provisions

Article 40 — This Law shall come into force on May 1, 2009.

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