Insurance Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of regulating insurance activities, protecting the lawful rights and interests of the parties to insurance activities, strengthening the supervision and administration of the insurance industry, maintaining the public interest, and promoting the sound development of the insurance industry.

Article 2 — "Insurance" as used in this Law means a commercial act whereby an applicant for insurance pays insurance premiums to an insurer in accordance with the contract, and the insurer assumes an obligation to pay indemnity for property losses caused by the occurrence of a contingency specified in the contract, or to pay insurance benefits when the insured person dies, becomes disabled, suffers illness, or reaches the age or time limit specified in the contract.

Article 3 — This Law applies to insurance activities conducted within the territory of the People's Republic of China.

Article 4 — Insurance activities shall comply with laws and administrative regulations; the principle of voluntariness shall be observed, and no entity or individual may compel insurance.

Article 5 — The parties to insurance activities shall observe the principle of utmost good faith in exercising their rights and performing their obligations.

Article 6 — Insurance business shall be operated by insurance companies established in accordance with this Law and other insurance organizations prescribed by laws and administrative regulations. No other entity or individual may engage in insurance business.

Article 7 — The insurance regulatory authority under the State Council shall exercise supervision and administration over the insurance industry in accordance with the law. Other relevant departments under the State Council shall exercise supervision and administration over insurance activities within the scope of their respective responsibilities.

Chapter II — Insurance Contracts

Section 1 — General Provisions

Article 8 — An insurance contract is an agreement whereby the insurance applicant and the insurer agree on their rights and obligations in relation to insurance. An insurance contract shall be concluded through consensus between the insurance applicant and the insurer. The insurance applicant means a person who enters into an insurance contract with the insurer and bears the obligation to pay the insurance premium in accordance with the contract. The insurer means an insurance company that enters into an insurance contract with the insurance applicant and assumes the obligation to pay indemnity or insurance benefits in accordance with the contract.

Article 9 — An insurance contract shall be concluded on the basis of fairness, and the parties shall enjoy rights and assume obligations in accordance with the contract. Unless otherwise provided for by law or agreed upon in the contract, the insurer shall not terminate the insurance contract after it is concluded.

Article 10 — The insured means a person whose property or person is protected by the insurance contract and who is entitled to claim the insurance benefits. The insurance applicant may also be the insured. The beneficiary in personal insurance means the person designated by the insured or the insurance applicant to be entitled to claim the insurance benefits. The insurance applicant or the insured may be the beneficiary.

Article 11 — When concluding an insurance contract, the insurer shall explain the terms of the insurance contract to the insurance applicant, and may inquire about the subject matter of the insurance or the relevant circumstances of the insured. The insurance applicant shall truthfully disclose the circumstances inquired about. Where the insurance applicant intentionally conceals facts or fails to truthfully disclose circumstances due to gross negligence, thereby affecting the insurer's decision on whether to accept the insurance or increase the insurance premium rate, the insurer shall have the right to terminate the contract.

Article 12 — When the insurer concludes an insurance contract by adopting the standard clauses provided by the insurer, the insurer shall provide the insurance applicant with the policy and attach the standard clauses to the policy, and shall explain the terms of the contract to the insurance applicant. For clauses in an insurance contract that exempt the insurer from liability, the insurer shall draw the insurance applicant's attention to such clauses and give an explicit and clear explanation in writing or verbally when concluding the contract; failing which, such clauses shall have no effect.

Article 13 — An insurance contract shall contain the following particulars: (1) the name and domicile of the insurer; (2) the name and domicile of the insurance applicant and the insured, and the name and domicile of the beneficiary in personal insurance; (3) the subject matter of the insurance; (4) the insured liability and the exclusions; (5) the insurance period and the commencement of the insurance liability; (6) the insured amount; (7) the insurance premium and the method of payment; (8) the method of payment of the insurance indemnity or insurance benefits; (9) the liability for breach of contract and the dispute resolution; and (10) the date of conclusion of the contract.

Article 14 — After an insurance contract is concluded, the insurance applicant shall pay the insurance premium in accordance with the contract, and the insurer shall assume the insurance liability in accordance with the agreed time.

Article 15 — Unless otherwise provided for by this Law or agreed upon in the insurance contract, the insurance applicant may terminate the insurance contract after it is concluded, but the insurer shall not terminate the insurance contract.

Article 16 — The insurance applicant, the insured, or the beneficiary shall notify the insurer in a timely manner upon learning of the occurrence of an insured event. Where the failure to notify the insurer in a timely manner causes the insurer to be unable to ascertain the nature, cause, or extent of the loss of the insured event, the insurer shall not be liable for paying indemnity or insurance benefits for the unascertainable part, unless the insurer has learned of the insured event in a timely manner through other means or should have learned of it.

Section 2 — Property Insurance Contracts

Article 17 — A property insurance contract is an insurance contract in which the subject matter of the insurance is property and the relevant interests.

Article 18 — The insured amount of the subject matter of the insurance in a property insurance contract shall not exceed the insured value. Where the insured amount exceeds the insured value, the excess portion shall be null and void, and the insurer shall refund the corresponding insurance premium.

Article 19 — Where the insured event occurs and causes partial loss to the subject matter of the insurance, the insurance applicant may terminate the contract within 30 days from the date the insurer pays the indemnity; unless otherwise agreed in the contract, the insurer may also terminate the contract, but shall notify the insurance applicant 15 days in advance. Where the insurer terminates the contract, the insurer shall refund the insurance premium for the unexpired insurance period after deducting the premium receivable for the period from the commencement of the insurance liability to the date of termination of the contract.

Article 20 — Where the insurance accident occurs and the insurer has paid the full insured amount, and the insured amount is equal to the insured value, all rights to the damaged subject matter of the insurance shall vest in the insurer; where the insured amount is lower than the insured value, the insurer shall obtain the rights to the damaged subject matter of the insurance in proportion to the insured amount and the insured value.

Article 21 — Where the insured event is caused by a third party's act against the subject matter of the insurance, the insurer shall, from the date of paying the indemnity to the insured, exercise the right of subrogation to claim compensation from the third party to the extent of the indemnity paid. After the insured event occurs and before the insurer pays the indemnity, where the insured waives the right to claim compensation from the third party, the insurer shall not be liable for paying the indemnity.

Article 22 — An insurer exercising the right of subrogation against a third party may not affect the insured's right to claim compensation from the third party for the uncompensated portion.

Article 23 — The insurer shall not exercise the right of subrogation against any family member or employee of the insured, unless the insured event is intentionally caused by the family member or employee.

Article 24 — The insured shall provide the insurer with the necessary documents and the relevant information known to the insured when the insurer exercises the right of subrogation against a third party.

Section 3 — Personal Insurance Contracts

Article 25 — A personal insurance contract is an insurance contract in which the subject matter of the insurance is the life or body of a person.

Article 26 — The insurance applicant shall have an insurable interest in the insured. Where the insurance applicant has no insurable interest in the insured, the contract shall be null and void. The insurer shall not be liable for paying the insurance benefits and shall not refund the insurance premium.

Article 27 — Where a personal insurance contract is concluded with death as a condition for the payment of insurance benefits, the written consent of the insured who has full civil capacity shall be obtained and the insured amount shall be approved by the insured. The insurance applicant shall not apply for insurance with death as the condition for the payment of insurance benefits, and the insurer shall not underwrite such insurance, for a person without civil capacity, unless the parents apply for insurance for their minor children. The restriction that parents may apply for insurance for their minor children shall not apply to the preceding paragraph.

Article 28 — Where the insured intentionally causes his or her own death, disability, or illness, the insurer shall not be liable for paying the insurance benefits. For an insurance applicant who has paid the insurance premium for two years or more, the insurer shall refund the cash value of the policy in accordance with the contract. Where the insured commits suicide within two years from the date of conclusion of the contract, the insurer shall not be liable for paying the insurance benefits; for an insurance applicant who has paid the insurance premium for two years or more, the insurer shall refund the cash value of the policy in accordance with the contract.

Article 29 — Where the insured dies and there is no beneficiary, the insurance benefits shall be treated as the estate of the insured, and the insurer shall pay the insurance benefits to the heir of the insured in accordance with the provisions of the Inheritance Law of the People's Republic of China.

Chapter III — Insurance Companies

Article 30 — An insurance company shall be established in accordance with the provisions of this Law and the Company Law. The establishment of an insurance company shall be subject to the approval of the insurance regulatory authority under the State Council.

Article 31 — The minimum registered capital for the establishment of an insurance company shall be RMB 200 million. The insurance regulatory authority under the State Council may adjust the minimum amount of the registered capital of an insurance company in light of the business scope and scale of the insurance company, provided that it shall not be lower than the amount specified in the preceding paragraph. The registered capital of an insurance company shall be paid-in monetary capital.

Article 32 — An application for the establishment of an insurance company shall be accompanied by the following documents: (1) a written application for establishment, specifying the name, registered capital, and business scope of the insurance company to be established; (2) a feasibility study report; (3) articles of association; (4) the creditworthiness certificate of the investors and the relevant information; (5) the resumes and qualification certificates of the person in charge to be appointed; and (6) other documents prescribed by the insurance regulatory authority under the State Council.

Article 33 — The insurance regulatory authority under the State Council shall, within six months from the date of receiving the application for the establishment of an insurance company, make a decision on approval or disapproval, and shall notify the applicant of the decision in writing; if the application is not approved, the reasons shall be stated.

Article 34 — An insurance company shall set aside a guarantee fund in accordance with the provisions. The guarantee fund of an insurance company shall be deposited with a bank designated by the insurance regulatory authority under the State Council, and shall not be used except for paying off debts during the liquidation of the company.

Article 35 — An insurance company shall set aside a reserve fund for outstanding claims in accordance with the provisions to ensure its ability to pay claims and insurance benefits. The insurance company shall also set aside an outstanding loss reserve and an unearned premium reserve.

Article 36 — An insurance company shall have the minimum solvency commensurate with its business scale. Where the solvency of an insurance company falls below the prescribed minimum, the insurance regulatory authority under the State Council shall require the insurance company to take corresponding measures to reach the prescribed minimum.

Chapter IV — Insurance Business Rules

Article 37 — The business scope of an insurance company shall be: (1) personal insurance business, including life insurance, health insurance, and accident injury insurance; and (2) property insurance business, including property loss insurance, liability insurance, credit insurance, and guarantee insurance. No insurer may concurrently engage in both property insurance business and personal insurance business, unless otherwise provided by the insurance regulatory authority under the State Council.

Article 38 — An insurance company shall use the insurance clauses and insurance premium rates that have been approved or filed with the insurance regulatory authority in accordance with the law. Insurance clauses and insurance premium rates relating to the public interest, compulsory insurance, and newly developed life insurance shall be submitted to the insurance regulatory authority for approval.

Article 39 — An insurance company shall allocate funds in a sound manner in accordance with the provisions. The specific measures for the administration of the use of insurance funds shall be prescribed by the insurance regulatory authority under the State Council in accordance with the law.

Article 40 — An insurance company and its staff members shall not engage in the following acts in insurance business activities: (1) deceiving the insurance applicant, the insured, or the beneficiary; (2) concealing from the insurance applicant material information relating to the insurance contract; (3) preventing an insurance applicant from performing the obligation of truthful disclosure, or inducing an insurance applicant not to perform the obligation of truthful disclosure; or (4) giving or promising to give to the insurance applicant, the

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insured, or the beneficiary any premium rebates or other benefits other than those provided for in the insurance contract.

Chapter V — Insurance Agents and Insurance Brokers

Article 41 — An insurance agent is an entity or individual that, in accordance with the entrustment of an insurer, collects agency fees from the insurer and handles insurance business on behalf of the insurer within the scope authorized by the insurer. An insurance broker is an entity that, based on the interests of the insurance applicant, provides intermediary services for the conclusion of insurance contracts between the insurance applicant and the insurer and collects commissions in accordance with the law.

Article 42 — An insurance agent or insurance broker shall have the qualifications prescribed by the insurance regulatory authority under the State Council, obtain the business license for an insurance agency or insurance brokerage issued by the insurance regulatory authority, complete the registration with the administrative department for industry and commerce, obtain a business license, and post a security bond or obtain professional liability insurance.

Article 43 — An insurance agent or insurance broker shall not use administrative power, position, or occupational convenience, or any other improper means to compel, induce, or restrict an insurance applicant to conclude an insurance contract.

Chapter VI — Insurance Supervision and Regulation

Article 44 — The insurance regulatory authority under the State Council shall supervise and regulate the insurance industry in accordance with the provisions of this Law and the duties prescribed by the State Council, maintain the order of the insurance market, and protect the lawful rights and interests of the insurance applicants, the insureds, and the beneficiaries.

Article 45 — The insurance regulatory authority shall establish and improve a solvency supervision and management system and conduct risk monitoring of insurance companies.

Article 46 — Where an insurance company violates the provisions of this Law and endangers or may seriously endanger its solvency, the insurance regulatory authority may take the following measures against the insurance company: (1) ordering it to increase capital or replenish capital; (2) restricting the scope of business; (3) restricting the distribution of dividends to shareholders; (4) restricting the scale of asset acquisition or the scale of operation; (5) restricting the form or proportion of the use of funds; (6) restricting the establishment of branch offices; (7) ordering it to auction off non-performing assets or to transfer part of its business; or (8) other regulatory measures prescribed by the insurance regulatory authority.

Article 47 — The insurance regulatory authority shall have the right to require the legal representative and other management personnel of an insurance company to make corrections to business activities, risk management, internal control, and other issues.

Chapter VII — Legal Liability

Article 48 — Where an entity or individual engages in insurance business without approval, the insurance regulatory authority shall ban the entity or individual, confiscate the illegal gains, and impose a fine of not less than one time but not more than five times the illegal gains; where there are no illegal gains or the illegal gains are less than RMB 200,000, a fine of not less than RMB 200,000 but not more than RMB 1,000,000 shall be imposed.

Article 49 — Where an insurance company, in violation of this Law, engages in business beyond its approved business scope, the insurance regulatory authority shall order the insurance company to rectify the matter within a prescribed time limit, confiscate the illegal gains, and impose a fine of not less than one time but not more than five times the illegal gains; where there are no illegal gains or the illegal gains are less

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than RMB 100,000, a fine of not less than RMB 100,000 but not more than RMB 500,000 shall be imposed.

Article 50 — Where an insurance company fails to set aside or carry forward reserves in accordance with the provisions of this Law, or fails to use funds in accordance with the provisions, the insurance regulatory authority shall order the insurance company to rectify the matter and impose a fine.

Article 51 — Where an insurance company, an insurance agent, or an insurance broker commits any of the acts specified in Article 40 of this Law, the insurance regulatory authority shall order the offender to make correction and impose a fine of not less than RMB 50,000 but not more than RMB 300,000; where the circumstances are serious, the offender's business scope shall be restricted or the offender shall be ordered to cease accepting new business, or its business license shall be revoked.

Article 52 — Where any person, in violation of this Law, causes damage to another person by committing insurance fraud or any other act, the person shall bear civil liability in accordance with the law; where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Chapter VIII — Supplementary Provisions

Article 53 — Insurance companies shall join the Insurance Association of China. The Insurance Association of China is a self-regulatory organization of the insurance industry and is a social organization legal person.

Article 54 — This Law shall come into force on October 1, 1995.

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