

China - Insurance Law, 1995

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Insurance Law of the People’s Republic of China		
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Eighth National People's Congress on June 30, 1995, and
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Republic of China on June 30, 1995)

Chapter I - General Provisions 2

Article 1 3

This Law is enacted with the purpose of regulating insurance activities, protecting the 4
legitimate rights of the parties to insurance, strengthening supervision and control over
the insurance business and contributing to the healthy development of the insurance
industry.

Article 2 5

Insurance” as the term is used in this Law means a commercial insurance whereby 6
and insurance applicant, as contracted, pays the insurance premium to the insurer,
and the insurer bears a liability to indemnify for property damage or losses caused by
occurrence of possible accidents that are agreed upon in the contract, or to pay the
insurance benefit when the insured person dies, is injured or disable, suffers diseases
or reaches the age or term agreed upon in the contract.

Article 3 7

This Law shall apply to all insurance activities within the territory of the People's Re- 8
public of China.

Article 4 9

Whoever, in engaging in insurance activities, must abide by laws and administrative 10
regulations and follow the principle of voluntariness, honesty and trustworthiness.

Article 5 11

Those who engage in the commercial insurance business must be insurance compa- 12
nies which are established in accordance with this Law. No other units or individuals
may engage in the commercial insurance business.

Article 6

13

Legal entities and other organization within the territory of the People's Republic of China, when necessary to buy insurance policies within the territory, shall effect the insurance from the insurance companies within the territory of the People's Republic of China.

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Article 7

15

Insurance companies shall, in carrying on the insurance business, follow the principle of fair competition and may not engage in unfair competition.

16

Article 8

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The financial supervision and control department of the State Council is responsible for supervision and control over the insurance business in accordance with this Law.

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Chapter II - Insurance Contract

19

Section 1 - General Provisions

20

Article 9

21

An insurance contract is an agreement whereby the relation of rights and obligations of an insurance applicant and the insurer is stipulated. An insurance applicant means a person who concludes an insurance contract with an insurer and undertakes a liability to pay the insurance premium as contracted. An insurer means an insurance company which concludes insurance contracts with insurance applicants and bears the liability to indemnify or to pay the insurance benefit.

22

Article 10

23

In making insurance contracts, applicants and insurers shall follow the principles of fairness, mutual benefits, unanimity through negotiation and voluntariness, and may not harm the interests of the social public. With the exception of those that must be insured as provided by laws and administrative regulations, insurance companies and other units may not force others entering into insurance contracts.

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Article 11

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An insurance applicant shall have an insurable interest over the subject-matter insured. In case that an applicant has no insurable interest over the subject-matter insured, the insurance contract shall not be binding. An insurable interest means an interest

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that an applicant has over the subject-matter insured, of which is recognized by laws. As subject-matter insured means the property and its related interests, or the life expectancy and human body which serve as insurance objects.

Article 12

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When an insurance applicant proposes an insurance request, and an insurer agrees to accept the proposal, and after an agreement on contract clauses is reached, the insurance contract shall be deemed as concluded. The insurer shall promptly issue an insurance policy or other certificates of insurance to the applicant, and the insurance policy or other certificates of insurance shall contain and specify the contents of the contract agreed upon by both parties. Upon consent through negotiation, an applicant and an insurer may also conclude an insurance contract in writing in other forms other than those provided in the preceding paragraph.

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Article 13

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After an insurance contract is concluded, the applicant shall pay the insurance premium as contracted and the insurer shall bear the insurance liability from the time of commencement as contracted.

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Article 14

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Unless this Law otherwise provides or the insurance contract otherwise stipulates, the applicant may terminate the insurance contract after its conclusion.

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Article 15

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Unless this Law otherwise provides or the insurance contract otherwise stipulates, the insurer may not terminate the insurance contract after its conclusion.

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Article 16

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Before an insurance contract is signed, the insurer shall disclose to the applicant the contents of clauses of the contract, and also may make inquiry on conditions relating to the subject-matter to be insured or the person to be insured, and the applicant shall disclose thereto truthfully.

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If the applicant intentionally conceals facts, fails intentionally to execute the truthfully-reporting responsibility, or fails to execute the truthfully-reporting responsibility due to mistake, which is sufficient enough to affect the insurer in deciding whether or not to agree to the insurance or to raise the insurance premium rate, the insurer shall have the right to terminate the insurance contract. Where the applicant fails intentionally

37

to execute the truthfully-reporting responsibility, the insurer will not bear the liability to indemnify or to pay the insurance benefit for the insurance accidents that occur prior to the termination of the insurance contract, and will not return the insurance premium. Where the applicant fails to execute the truthfully-reporting responsibility due to mistake and where the failure has a serious bearing over the occurrence of the insurance accident, the insurer will not bear the liability to indemnify or to pay the insurance benefit for the insurance accident that happens prior to the termination of the insurance contract, however, may return the insurance premium. An insurance accident means an accident that falls in the scope of insurance liability as contracted.

Article 17

38

Where an insurance contract contains clauses on liability exemption of the insurer, the insurer shall disclose them clearly to the applicant before the insurance contract is signed, and if the insurer fails to make it clear to the applicant, such clauses will not have binding force.

39

Article 18

40

An insurance contract shall contain the following particulars:

41

1. name and address of the insurer; 42
2. names and addresses of the applicant and the insured, as well as the name and address of the beneficiary to a life insurance policy; 43
3. subject-matter insured; 44
4. insurance liability and liability exemption; 45
5. insurance period and the time of commencement of the insurance liability; 46
6. insured value; 47
7. insured amount; 48
8. insurance premium and mode of payment; 49
9. mode of payment of insurance indemnity or insurance money; 50
10. responsibility for breach of contract and dispute settlement; and 51
11. the day, month and year on which the contract is signed. 52

Article 19

53

An insurance applicant and an insurer may make other stipulations on matters and items related to the insurance other than those particulars of the insurance contract as provided in the preceding article.

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Article 20

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Within the validity period of an insurance contract, the applicant and the insuree may, upon agreement through negotiation, modify relevant contents of the insurance contract. Where an insurance contract is modified, the insurer shall mark notes or attach slip on the original insurance policy or other insurance certificates, or the applicant and the insurer shall make an agreement in writing on such modifications.

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Article 21

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At the time of being aware of the occurrence of an insurance accident the applicant, the insured or the beneficiary, shall timely notify the insurer. An insured means a person whose property or body is guaranteed by the insurance contract, and who enjoys the right of claim over the insurance benefit. An applicant may be an insured. A beneficiary means a person who enjoys the right of claim over the insurance benefit as designated by insured or the applicant in life insurance contract. An applicant or an insured may be a beneficiary.

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Article 22

59

At the time of requesting the insurer, in accordance with the insurance contract, for indemnity or payment of the insurance benefit after the occurrence of an insurance accident the applicant, the insured or the beneficiary shall provide to the insurer the relevant proofs and materials, as much as they can provide, so as to determine the nature, cause and degree of loss of the accident. The insurer who considers relevant proofs and materials as incomplete according to the stipulations of the insurance contract shall notify the applicant, the insured or the beneficiary to submit additional relevant proofs and materials.

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Article 23

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The insurer shall, after receiving claims for indemnity or payment of insurance benefit from the insured or the beneficiary, timely come to a decision, as for those within the insurance liability, he shall execute the liability of indemnity or payment of the insurance benefit within 10 days after reaching an agreement over the indemnity or payment of the insurance benefit with the insured or the beneficiary. If the insurance contract has the stipulations on insured amount and the period for indemnity or payment, the insurer shall, as contracted, execute the liability of indemnity or payment of the insurance benefit. Apart from paying the insurance benefit, the insurer who fails timely to execute the liability as provided in the preceding paragraph shall indemnify the insured or the beneficiary for losses therefrom. No unit or individual may illegally interfere the insurer from executing the liability over indemnity or payment of the insurance benefit, and may either restrict the rights of the insured or the beneficiary in obtaining the insurance ben-

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efit. The insured amount means the maximum measure of indemnity or payment of the insurance benefit by the insurer.

Article 24

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After an insurer receives the request made by an insured or a beneficiary on indemnity or payment of the insurance benefit, as for those not falling under the insurance liability, the insurer shall issue a notice of refusal to indemnify or to make payment of the insurance benefit to the insured or the beneficiary therefore.

64

Article 25

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An insurer who fails to determine the amount of indemnity or payment of the insurance benefit within 60 days from the date on which the request for indemnity or payment of the insurance benefit as well as relevant proofs and materials are received, shall pay the minimum amount which can be determined by the proofs and materials already available; after determining eventually the amount of indemnity or payment of the insurance benefit, the insurer shall pay the corresponding gap.

66

Article 26

67

The right of claim for indemnity or payment of the insurance benefit of the insured or beneficiary of any other insurance other than the life insurance shall, if not executed in two year from the date of being aware of the occurrence of the insurance accident, cease to exist. The right of claim for payment of the insurance benefit of the insured or the beneficiary of life insurance shall if not executed in five years from the date of being aware of the occurrence of the insurance accident, cease to exist.

68

Article 27

69

If the insured or the beneficiary, under the circumstance that no insurance accident happens, lies about the occurrence of the accident and makes request for indemnity or payment of the insurance benefit to the insurer, the insurer shall have the right to terminate the insurance contract and will not return the insurance premium. If the applicant, the insured or the beneficiary intentionally causes an insurance accident, the insurer shall have the right to terminate the insurance contract, will not bear the liability over indemnity or payment of the insurance benefit, and will not return the insurance premium with the exception of separate provisions in the first paragraph of Article 64 of this Law. If the applicant, the insured or the beneficiary, after the occurrence of an insurance accident, forges or alters relevant proofs materials or other evidences so as to provide false things account for the occurrence of the accident or to overstate the losses, the insurer shall not bear the liability over indemnity or payment of the insurance benefit for the part falsified. The applicant, the insured or the beneficiary, who commits

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one of the acts mentioned in the foregoing three paragraphs and causes the insurer make payment of the insurance benefit or expenses, shall return the payment or make compensation.

Article 28 71

When an insurer, in the form of underwriting, transfers partially its insurance business it undertakes to other insurers, this is called a reinsurance. At the request by a reinsurance acceptor, the outward reinsurer shall notify the reinsurance acceptor the relevant information on its self-born liability and the original insurance. 72

Article 29 73

Reinsurance acceptors may not demand the applicants of the original insurance to pay the insurance premium. The insured or the beneficiary of the original insurance may not claim for indemnity or payment of the insurance benefit from the reinsurance acceptor. The outward reinsurer may not, at the excuse that the reinsurance acceptor fails to execute the reinsurance liability, refuse or delay in executing the original insurance liability. 74

Article 30 75

When the insurer has disputes on the contents of an insurance contract with the applicant, the insured or the beneficiary, the people's court or arbitration organ shall make interpretation and explanation favorable to the insured and the beneficiary. 76

Article 31 77

The insurer or reinsurance acceptors shall be liable to keep under secret and confidential conditions the business and property information of the applicants, the insured or the outward reinsurers, which they get to know in carrying on the insurance business. 78

Section 2 - Property Insurance Contract 79

Article 32 80

A property insurance contract means an insurance contract under which the property and its related interest are the subject-matter insured. Property insurance contract in this Section, unless especially specified, is abbreviated as contract. 81

Article 33 82

The transfer of subject-matter insured shall be informed to the insurer, and upon agree- 83

ment to continue to underwrite by the insurer, the contract shall be modified according to law. However, insurance contracts of cargo transportation and contracts with otherwise stipulations shall be excluded.

Article 34

84

After the commencement of the insurance liability of insurance contracts of cargo transportation and voyage insurance contracts of transport means, the parties to such contracts may not terminate the contracts.

85

Article 35

86

The insured shall abide by the State's regulations relating to the fire fighting, safety, production operation and labor protection, so as to ensure the safety of the subject-matter insured. The insurer may, as contracted, carry out inspection into the safety condition of the subject-matter insured, and timely make written suggestions on eliminating factors and hidden dangers to the applicant and the insured. Where the applicant or the insured fails to execute this due responsibility on the safety of the subject-matter insured as contracted, the insurer shall have the right to demand for increase in the insurance premium or to terminate the contract. For the purpose of ensuring the safety for the subject-matter insured, the insurer may, upon consent by the insured, take safety preventive measures.

87

Article 36

88

If, within the validity period of a contract, the degree of danger of the subject-matter insured increases, the insured shall timely notify the insurer as contracted, the insurer shall have the right to demand for increase in the insurance premium or to terminate the contract. Where the insured fails to execute the notification responsibility provided in the preceding paragraph, and an insurance accident thereby occurs due to the increase in the degree of danger of the subject-matter insured, the insurer will not bear the liability for indemnity.

89

Article 37

90

Under any of the following circumstances and unless the contract has otherwise stipulations, the insurer shall lower the insurance premium, and return the corresponding insurance premium calculated on a daily basis: 1. relevant circumstances on which the determination of insurance premium rate was based has undergone changes, and degree of danger of the subject-matter insured has obviously reduced, or 2. insurable value of the subject-matter insured has obviously reduced.

91

Article 38

92

If an applicant requests to terminate the contract prior to the commencement of an insurance liability, he shall pay a handling fee to the insurer and the insurer shall return the insurance premium. If an applicant request to terminate the contract after commencement of an insurance liability, the insurer may charge the insurance premium due from the date on which the insurance liability begins to the date on which the contract is terminated, the remaining part shall be returned to the applicant.

93

Article 39

94

Insurable value of a subject-matter insured may be determined by the applicant and the insurer and be contained in the contract, and also may be determined according to the actual value of the subject-matter insured at the time that the insurance accident occurs. The insured amount may not exceed the insurable value, if exceeding, the part in excess shall be invalid. Where the insured amount is lower than the insurable value, unless the contract has separate stipulations, the insurer will bear the liability for indemnity according to the percentage of the insured amount of the insurable value.

95

Article 40

96

An Applicant of a double insurance shall notify each insurer on relevant conditions of the double insurance. If the total insured amount of a double insurance exceeds the insurable value, the total amount of indemnity to be made by all insurers may not exceed the insurable value. Unless the contract has otherwise stipulations, each insurer will bear the liability for indemnity according to the percentage of its insured amount to the total insured amount. A double insurance means an insurance under which an applicant concludes separate insurance contracts with two or more than two insurers on the same subject-matter insured, the same insurable interest and the same insurance accident. A double insurance means an insurance under which an applicant concludes separate insurance contracts with two or more than two insurers on the same subject-matter insured, the same insurable interest and the same insurance accident.

97

Article 41

98

If an insurance accident occurs, the insured shall have the duty to take necessary measures to prevent or minimize the losses. After the occurrence of an insurance accident, the necessary and reasonable expenses sustained by the insured in preventing or minimizing the losses of the subject-matter insured shall be on the insurer's account, the amount on the insurer's account shall be calculated separately from the indemnity for the losses of the subject-matter insured, the maximum amount may not exceed the insured amount.

99

Article 42

100

Where partial loss occurs to the subject-matter insured, the applicant may terminate the contract within 30 days after the insurer has made indemnity. Except otherwise provided for, the insurer may also terminate the contract. The insurer who intends to terminate the contract shall notify the applicant 15 days in advance, and shall return the insurance premium on the undamaged part of the subject-matter insured to the applicant after deducting the part receivable for the period from the date of the commencement of insurance liability to the date on which the contract is terminate.

101

Article 43

102

Where the insurer, after the occurrence of an insurance accident, has made full payment of the insured amount, and the insured amount is equal to the insurance value, all rights of the damaged subject-matter insured shall belong to the insurer, if the insured amount is lower than the insurance value, the insurer shall obtain the part of rights of the damaged subject-matter insured according to the percentage of the insured amount to the insurance value.

103

Article 44

104

If an insurance accident is caused by damage over the subject-matter insured by a third party, the insurer will, from the date of making payment of the insurance benefit to the insured, execute the right of subrogation in claiming for indemnity over the said third party within the limit of indemnity. Where the insured has obtained indemnity from the third party for the loss after the occurrence of an insurance accidents as provided in the preceding paragraph, the insurer may, when making payment of the insurance benefit, deduct the amount which the insured has already obtained from the third party. When the insurer execute the right of subrogation for indemnity as provide in the first paragraph, it does not affect the right of claim of the insured against the third party for compensation on the part which has not been compensated yet.

105

Article 45

106

If the insured, after the occurrence of an insurance accident and before the insurer makes payment of the insurance benefit, waives his rights of claim for indemnity against the third party, the insurer will not bear the liability of indemnity for the insurance benefit.

107

If, after the insurer has paid indemnities to the insured, the insured forfeits the right to indemnities from the third party, the act is invalid.

108

If, due to the fault of the insured, the insurer cannot subrogate* the insured to exercise the right to claim for indemnities, the insurer shall reduce the payment of insurance money correspondingly.

109

Article 46 110

With the exception that family members or component persons of the insured intentionally cause the insurance accidents provided in Paragraph 1 of Article 44 of this Law, the insurer may not execute the right of subrogation for indemnity to the family members or component persons. 111

Article 47 112

When the insurer executes the right of subrogation against the third party for indemnity, the insured shall provide necessary documents and relevant information within its knowledge to the insurer. 113

Article 48 114

Necessary and reasonable expenses paid by the insurer and the insured for the purpose of investigating and determining the nature and cause of the insurance accident and the degree of losses of the subject-matter insured shall be born by the insurer. 115

Article 49 116

If the insured of a liability insurance causes damage and loss to a third party, the insurer may, in accordance with the provisions of laws or the stipulations in the contract, directly make payment of the insurance benefit to the third party. A liability insurance means an insurance in which the liability for indemnity due of the insured to the third party is the subject-matter insured. 117

Article 50 118

If the insured of a liability insurance is brought to arbitration or legal proceedings due to an insurance accident in which damage or loss is caused to a third party by the insured, unless the contract contains otherwise stipulations, the insurer shall bear the arbitration or court charges as well as other necessary and reasonable expenses paid by the insured. 119

Section 3 - Life Insurance Contract 120

Article 51 121

A life insurance contract is an insurance contract in which life expectancy and human body serve as the subject-matter insured. Life insurance contract, unless especially specified, is abbreviated as contract in this Section. 122

Article 52

123

An insurance applicant has the insurable interest over the following persons:

124

1. the applicant himself;

125

2. his spouse, children and parents, and

126

3. other family members or near relatives, other than those listed in the preceding item, with whom the applicant fosters, cares of or has a support relationship.

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Excluding the provisions of the preceding paragraph, if the insured agrees the applicant to conclude a contract for him, it shall be deemed that the applicant has insurable interest over the insured.

128

Article 53

129

If the age of the insured declared by applicant is not true to fact, and the actual age fails to be in conformity with the age limit as agreed upon in the contract, the insurer may terminate the contract, and return the insurance premium to the applicant after deducting the handling fees, however, the contract which has been served for more than two years into since its conclusion shall be excluded. If the age of the insured declared by the applicant is not true to fact, which hereby causes the applicant paying an insurance premium less than the insurance premium payable, the insurer shall have the right to correct it and demand the applicant to make up the insurance premium, or pay the insurance benefit according to the percentage of the actually paid insurance premium to the insurance premium payable. If the age of the insured declared by the applicant is not true to fact, which hereby causes the applicant paying an insurance premium more than the insurance premium payable, the insurer shall return the insurance premium collected in excess to the applicant.

130

Article 54

131

An applicant may not effect a life insurance for persons without civil capacity, in which death is the prerequisite for payment of the insurance benefit, and the insurer may not accept it. Life insurance effected by parents for their minor children shall not be restricted by the provisions of the preceding paragraph, however, the total amount of the insurance benefit paid at their death may not exceed the limit stipulated by the financial supervision and control department.

132

Article 55

133

A contract in which death is the prerequisite for payment of the insurance benefit, unless approved by the insured in writing and agreed on the insured amount, shall be deemed as invalid and void. An insurance policy issued according to a contract in which death is the prerequisite for payment of the insurance benefit, unless with written approval by

134

the insured, may not be assigned or mortgaged. Life insurance effect by parents for their minor children shall not be limited by the provisions of the first paragraph.

Article 56

135

An applicant, after the contract is signed, may pay full insurance premium in one installment to the insurer, and also may pay the insurance premium in installments as contracted. Where a contract stipulates the insurance premium to be paid in installments, the applicant shall pay the initial payment of insurance premium at the time the contract is entered into, and shall pay the insurance premium for various remaining installments as scheduled.

136

Article 57

137

In case a contract stipulates the payment of the insurance premium to be made in installments, after the applicant has paid the first installments of the premium, but fails to pay the current installment of the premium 60 days as scheduled, the force of the contract will cease to exist, unless the contract contains otherwise stipulations, or, the insurer shall reduce the insured amount according to the terms stipulated in the contract.

138

Article 58

139

Upon agreement through negotiation by the insurer and the applicant and after the applicant makes up the payment of the insurance premium, the force of a contract which ceases according to the provisions of the preceding paragraph, may be resumed. However, in the case when the two sides fail to reach agreement within two years after the termination of the contract, the insurer has the right to terminate the contract. If the contract is terminated as provided for in the preceding paragraph, the insurer shall return the cash value of the insurance policies as agreed upon in the contract if the insured has paid up insurance premium for more than two full years. If the insured has not paid up the premium for less than two years, the insurer shall return the premium paid after deducting the commissions.

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Article 59

141

The insurer may not resort to legal proceedings to demand the applicant to pay the insurance premium of life insurance.

142

Article 60

143

The beneficiary of life insurance shall be appointed by the insured or the applicant. The applicant must be subject to approval by the insured when appointing the beneficiary.

144

If the insured is a person without civil capacity or a person with limited civil capacity, his guardian may appoint the beneficiary.

Article 61

145

An insured or an applicant may appoint one or several persons as the beneficiary. If the beneficiary includes several persons, the insured or the applicant may decide the order for benefit and their shares of benefits if no share of the benefit is decided, the beneficiaries shall have the equal amount of rights on benefit.

146

Article 62

147

An insured or an applicant may change the beneficiary and shall notify the insurer in writing. The insurer shall, after receiving the written notification on the change of beneficiary, mark it on the insurance policy. An applicant must be subject to approval by the insurer when changing the beneficiary.

148

Article 63

149

Under one of the following circumstances, the insurance benefit shall be treated as the legacy of the insured who dies, and the insurer shall execute its liability of payment of the insurance benefit to the heir of the insured:

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1. without any person appointed as the beneficiary;
2. The beneficiary dies earlier than the insured, and there is no other beneficiary; and
3. the beneficiary loses usufruct or waives the usufruct, and there is no other beneficiary.

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152

153

Article 64

154

If an applicant or a beneficiary intentionally causes the death of, injury to, disability or disease of the insured, the insurer will not bear the liability of payment of the insurance benefit. If the applicant has already paid in full the insurance premium for two years or more, the insurer shall, as contracted, return the cash value of the insurance policy to other entitled beneficiary. Any beneficiary, who intentionally causes the death of, injury to, or disability of the insured, or attempts intentionally to murder the insured, will lose his usufruct.

155

Article 65

156

Under a contract in which death is the prerequisite for payment of the insurance benefit, if the insured commits suicide, with the exception of those provided in Paragraph 2

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of this Article, the insurer will not be liable for payment of the insurance benefit, as for the insurance premium already paid by the applicant, however, the insurer shall, according to the insurance policy, return its cash value. Under a contract in which death is the prerequisite for payment of the insurance benefit and after two full years after the contract was signed, if the insured commits suicide, the insurer may, as contracted, pay the insurance benefit.

Article 66

158

If the insured intentionally commits crimes to cause injury to, disability or death of himself, the insurer will not be liable for the payment of the insurance benefit.

159

If the applicant has already paid in full the insurance premium for two years or more, insurer shall, according to the insurance policy, return its cash value.

160

Article 67

161

If the insured of a life insurance sustains an insurance accident as death, injury, disability or disease due to the harms done by a third party, the insurer, after making the payment of insurance benefit to the insured or the beneficiary, may not enjoy the right of claims for compensation against the third party.

162

Article 68

163

If an applicant who has already paid in full the insurance premium for two years or more terminates the contract, the insurer shall, within 30 days after receiving the notification on termination of the contract, return the cash value of the insurance policy; if the applicant has not yet paid the insurance premium for two full years, the insurer shall, after deducting the handling fees as contracted, return the insurance premium.

164

Chapter III - Insurance Company

165

Article 69

166

An insurance company shall take any of the following organizational forms:

167

1. limited liability company, or
2. solely State-owned company.

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Article 70

170

The establishment of an insurance company must be subject to approval by the financial supervision and control department.

171

Article 71 172

To establish an insurance company, the following requirements shall be met: 173

1. having an articles of association in conformity with the provisions of this Law and the Company Law; 174
2. having the minimum amount of registered capital as provided in this Law; 175
3. having qualified management personnel with professional knowledge and working experiences qualified for their posts; 176
4. having a well-found organizational structure and management system; and 177
5. having its business place and other relevant facilities up to the requirements. 178

The financial supervision and control department, when examining the application for establishment, shall take into account the needs of the insurance industry development and fair competition. 179

Article 72 180

The minimum amount of registered capital for setting up an insurance company is 200 million Renminbe yuan. 181

The minimum amount of registered capital of an insurance company must be the money capital actually contributed 182

The financial supervision and control department may, in accordance with the business scope and operation scale of an insurance company, adjust the minimum amount of registered capital for the company, the minimum amount, however, may not be lower than the amount provided in the first paragraph. 183

Article 73 184

At the time of applying for the establishment of an insurance company, the following documents and materials shall be submitted. 185

1. a written application for establishment which shall contain the designation, registered capital and business scope of the insurance company intended to be established; 186
2. a feasibility study report; and 187
3. other documents and materials required by the financial supervision and control department. 188

Article 74 189

If the applicant for the establishment of an insurance company is found to meet the requirements through preliminary examination, the applicant shall then carry out the 190

preparation for the establishment of the insurance company in accordance with the provisions of this Law and the Company Law. For those which meet the requirements on establishment provided in Article 71 of this Law, the formal application form and the following documents and materials shall be submitted to the financial supervision and control department:

1. articles of association of the insurance company; 191
2. name list of shareholders as well as their shares or contributors as well as their contributions; 192
3. letters of credit and relevant materials of those shareholders who own more than 10 percent of registered capital; 193
4. verification certificate issued by authorized capital verification organizations; 194
5. resumes and qualification certificates of senior management personnel intended to be appointed; 195
6. operation principle and plan; 196
7. information on the business place and other facilities relevant to its business; and 197
8. other documents required by the financial supervisions and control department. 198

Article 75 199

The financial supervision and control department shall, within six months from the date on which the formal application documents for the establishment of an insurance company are received, make a decision to approve or disapprove it. 200

Article 76 201

An insurance company which are approved to be established shall be issued a license for engaging in the insurance business by the department of approval, and shall, on the strength of the aforesaid license, complete registration with the administrative department for industry and commerce, and obtain its business license 202

Article 77 203

If an insurance company, within six months from the date on which the license for engaging in the insurance business is obtained, fails to complete company registration without justified reasons, its license for engaging in the insurance business shall cease to be valid automatically. 204

Article 78

205

An insurance company shall, after its establishment, allocate 20 percent of its total capital as guarantee fund, and deposit it in the bank designated by the financial supervision and control department, such guarantee fund may not be used except to be used to clear off debts when the insurance company is under liquidation.

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Article 79

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An insurance company must be subject to approval from the financial supervision and control department in establishing branch organizations within and outside the territory of the People's Republic of China, and shall obtain licenses for engaging in insurance business for these branches organizations.

208

The branch organizations of an insurance company do not have the status of legal entity, and their civil liability shall be born by the insurance company.

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Article 80

210

The establishment of representative offices by an insurance company within and outside the territory of the People's Republic of China must be subject to approval by the financial supervision and control department.

211

Article 81

212

An insurance company shall get the approval of the financial supervision and administration departments in one of the following alterations:

213

1. change of its designation; 214
2. change in its registered capital; 215
3. change of business places of the company or its branch organizations; 216
4. adjustment of its business scope; 217
5. split or merger of the company; 218
6. revision of its articles of association; 219
7. change of the contributors or shareholders who own more than 10 percent of the total shares; and 220
8. other modifications stipulated by the financial supervision and control department. 221

An insurance company which intends to change its chairman of the board or the general manager shall report to the financial supervision and control department for examining his qualifications for the position.

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Article 82

223

The provisions of the Company Law shall apply to the organizational structure of insurance companies.

224

Article 83

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A solely state-owned insurance company sets up a board of supervisors which shall be composed of representatives from the financial supervision and control department, relevant experts and the insurance company's persons, and carry out supervision over various reserve fund appropriated by the solely State-owned insurance company, its minimum payment capability and value increase and value maintenance of State-owned property and assets as well as acts of the senior management personnel committed in violation of laws, administrative regulations or the articles of association and acts impairing the company's interests.

226

Article 84

227

An insurance company, due to its split, merger or the occurrence of dissolution causes stipulated in the article of association and upon the approval by the financial supervision and control department, dissolves. The insurance company shall, according to law, form a liquidation group to carry out liquidation. Those insurance companies engaged in the life insurance business may not be dissolved except it split or merger.

228

Article 85

229

If the license for engaging in the insurance business of an insurance company, due to its violation of laws and administrative regulation, is revoked by the financial supervision and control department, the said insurance company shall be dissolved according law. The financial supervision and control department shall timely organize a liquidation group to carry out liquidation.

230

Article 86

231

When an insurance company is unable to service its debts due, it shall, with the consent of the financial supervision and control department, be declared bankruptcy by a people's court according to law. If an insurance company is declared bankruptcy, the people's court shall organize a liquidation group composing of relevant departments such as the financial supervision and control departments and relevant personnel to carry out liquidation.

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Article 87

233

If an insurance company engaged in the life insurance business is dissolved or is de-

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clared bankruptcy according to law, the life insurance contracts and reserve fund in its possession must be transferred to other insurance companies engaged in the life insurance business; in case of no transfer agreement with other insurance companies, the financial supervision and control department shall appoint insurance companies engaged in the life insurance business to accept them.

Article 88

235

If an insurance company goes bankrupt according to law, the bankrupt property shall, after paying bankruptcy expenses in priority, be distributed according to the following order:

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1. Wages and salaries to its employees in arrears and labor insurance costs;
2. indemnity or payment of the insurance benefit;
3. tax in default; and
4. to service the company s debts.

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If the bankrupt property is not sufficient to service the payment claims in the same order, it shall be distributed according to a percentage.

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Article 89

242

When an insurance company terminates its business operations according to law, its license for engaging in the insurance business shall be canceled.

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Article 90

244

In absence of the provisions in this Law, the provisions of the company Law, other relevant laws and administrative regulations shall apply to the matters such as establishment, modification, dissolution and liquidation of insurance companies.

245

Chapter IV - Operational Rules Governing Insurance

246

Article 91

247

Business scopes of insurance companies:

248

1. property insurance business, including such insurance businesses as insurance of property loss, liability insurance and credit insurance; and
2. life insurance business, including such insurance businesses as life insurance, health insurance and accident insurance.

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One insurer may not engage in the property insurance business and life insurance business concurrently.

251

The business scope of an insurance company shall be approved by the financial supervision and control department. The insurance companies can only carry on insurance business activities within their business scopes approved. 252

The State Council shall formulate the measures on separation of business operation as provided in the second paragraph for those insurance companies which have been set up prior to the enforcement of this law. 253

Article 92 254

Upon approval by the financial supervision and control department, an insurance company may engage in the following reinsurance business of those insurance businesses provided in the preceding article: 255

1. outward insurance; 256
2. inward insurance. 257

Article 93 258

The insurance companies engaged in insurance businesses other than the life insurance business shall allocate undue liability reserve fund from the retention insurance premiums of the current year; the amount allocated and carried forward shall be equivalent to 50 percent of the retention insurance premiums of the current year. 259

Those insurance companies engaged in the life insurance business shall allocate undue liability reserve fund according to the total net value of valid life insurance policies. 260

Article 94 261

Insurance companies shall allocate the outstanding loss reserve in accordance with the amount of insurance indemnity or payment already claimed for, as well as the amount of insurance indemnity or payment not yet claimed for but the insurance accident already happened. 262

Article 95 263

Apart from allocating reserve funds as provided in the preceding two articles, insurance companies shall, in accordance with the provisions of relevant laws, administrative regulations and the state's financial accounting system, allocate the accumulated fund. 264

Article 96 265

In order to protect the insured persons' interests and support their steady and healthy 266

operations, insurance companies shall, according to the regulations of the financial supervision and control department, appropriate and deposit the insurance guarantee fund.

The insurance guarantee fund shall be centrally controlled and used in a unified manner. 267

Article 97 268

An insurance company shall possess the minimum indemnity and payment ability which match its business scale. The balance of actual assets after deducting actual debts of an insurance company may not be lower than the amount stipulated by the financial supervision and control department; if the balance is lower than the amount stipulated, the insurance company shall increase its capital to make up the gap. 269

Article 98 270

The retention insurance premiums of the current year for an insurance company engaged in the property insurance business may not exceed four times of its combined total of its actual capital and accumulated fund. 271

Article 99 272

The liability for each risk unit of an insurance company, that is, the liability for the maximum loss scope possibly to be caused by each insurance accident, may not exceed 10 percent of the combined total of its actual capital and accumulated fund, the part in excess, if any, shall be effected a reinsurance. 273

Article 100 274

The calculation method on risk unit and plans on catastrophe risk of insurance companies shall be reported to the financial supervision and control department for approval. 275

Article 101 276

With the exception of the life insurance business, an insurance company shall, in accordance with the state's relevant regulations, effect a reinsurance for 20 percent of each insurance business it accepts. 277

Article 102 278

Where an insurance company needs to offer outward insurance, it shall give priority to insurance companies within the territory of China. 279

Article 103

280

The financial supervision and control department has the authority to restrict or forbid insurance companies to offer outward insurance business to insurance companies outside the territory of China, or to accept inward insurance business from outside the territory of China.

281

Article 104

282

The use of fund of the insurance company must be moderate and safe, follow the safety principle, and guarantee to increase and maintain the value of its assets.

283

The use of fund of the insurance company is restricted only to bank deposit, trading of government bonds and financial bonds and other forms of fund utilization stipulated by the State Council.

284

The fund of the insurance company may not be used to set up securities operation organizations or to invest in enterprises.

285

The concrete proportion of fund used by the insurance company and the capital for specific projects in its total capital shall be stipulated by the financial supervision and control department.

286

Article 105

287

Insurance companies and their employees may not commit the following acts during their insurance business activities:

288

1. to cheat the applicant, the insured or the beneficiary;
2. to conceal important information relevant to insurance contract to applicant;
3. to prevent the applicants from executing the truthfully-reporting responsibility provided in this law, or induce them not to execute the truthfully-reporting responsibility provided in this law; or
4. to promise the applicants, the insured or the beneficiary to give permits rebates or other interests beyond the stipulations of the insurance contracts.

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Chapter V - Supervision and Control over Insurance Business

293

Article 106

294

Basic insurance clauses and premium rates for major coverage of commercial insurance shall be provided by the financial supervision and control department.

295

The insurance clauses and insurance rates of other categories of insurance worked out by insurance companies shall be submitted for the record to financial supervision and administration departments.

296

Article 107

297

Financial supervision and administration departments have the right to check the operations, financial situation and operation of funds of insurance companies and have the right to demand for the supply of related written reports and materials within the prescribed time limit.

298

Insurance companies shall accept supervision and inspection according to law.

299

Article 108

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When an insurance company fails to appropriate or carry forward various reserve funds according to the provisions of this Law, or fails to effect reinsurance according to the provisions of this Law, or seriously violates the provisions of this Law on these of fund, the financial supervision and control department shall order the said insurance company to take the following measures to remedy within a set time limit:

301

1. to appropriate or carry forward various reserve funds according to law;
2. to effect reinsurance according to law;
3. to correct its acts of fund use committed in violation of law,; and
4. to change major person(s) in charge and relevant executive personnel.

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Article 109

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Subject to the provisions of the preceding article, if an insurance company fails to make correction within the set time limit after the financial supervision and control department has made the decision for making corrections within a set time limit, the financial supervision and control department shall decide to select professional persons in the insurance business and to appoint relevant personnel from the said insurance company to form a rectification group which will carry out rectification on the said insurance company.

307

The rectification decision shall contain and specify the designation of the insurance company to be rectified, the cause for rectification, rectification group and the rectification period, and shall be announced and advertised.

308

Article 110

309

The rectification group, during the rectification process, has the authority to supervise the said insurance company's daily affairs. The persons in charge and relevant executive personnel of the said insurance company shall perform their duties and powers under the supervision of the rectification group.

310

Article 111

311

During the rectification process, the original businesses of the insurance company may continue, however, the financial supervision and control department has the authority to ban it from any new business or to suspend part of its original business and to adjust the use of fund.

312

Article 112

313

Where an insurance company under rectification has already corrected its acts of violating this law and resumed its normal operation ability, the rectification, after the submission of report by the rectification group and upon approval by the financial supervision and control department, shall cease.

314

Article 113

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Where an insurance company violates the provisions of this Law and harms the interests of social public, which might seriously threaten or has already threatened its payment ability the financial supervision and control department may implement a takeover of the said company.

316

The aim of such takeover is to adopt necessary measures for the company taken over so as to protect the interests of the insured persons, and restore the normal operation of the said insurance company. The debts and credits of the insurance company taken over shall not change due to such a takeover.

317

Article 114

318

The composition of the takeover group and the implementation measures for takeover shall be made, announced and published by the financial supervision and control department.

319

Article 115

320

When the term of takeover expires, the financial supervision and control department may decide to extend the term, however, the maximum term for takeover may not exceed two years.

321

Article 116

322

When term of takeover expires and the insurance company has restored its normal operation ability, the financial supervisions and control department may decide to terminate the takeover.

323

If the takeover group believes that the assets of the insurance company is no longer sufficient to clear its debts, upon approval by the financial supervision and control department, it shall apply to a people's court to declare bankruptcy of the said insurance company according to law. 324

Article 117 325

An insurance company shall, within three month after the end of each fiscal year, submit its business report, financial accounting statement and relevant statements of the immediate previous year to the financial supervision and control department, and make announcements therefore according to law. 326

Article 118 327

An insurance company shall, before the end of each month, submit its business statistics report of the immediate previous month to the financial supervision and control department. 328

Article 119 329

Insurance companies engaged in the life insurance business must appoint and employ professional actuary certified by the financial supervision and control department, and establish an actuarial reporting system. 330

Article 120 331

The insurer and the insured may invite independent assessment organization established according to law or experts having statutory qualifications to carry out assessment and appraisal on insurance accidents. 332

Article 121 333

Insurance companies shall properly keep complete account books, originally vouchers and certificates as well as relevant materials about their business operation activities. 334

The keeping period of account books, original vouchers and certificates as well as relevant materials provided in the preceding paragraph may not be shorter than 10 years, calculating from the date which the insurance contracts ended. 335

Chapter VI - Insurance Agent and Insurance Broker 336

Article 122 337

An insurance agent means an unit or individual that, according to the commission by the insurer, collects commission fees from the insurer and handles the insurance business on behalf of the insurer within the domain of commission. 338

Article 123 339

An insurance broker means an unit which, for purpose of the interests of an insurance applicant, provides intermediary service of the applicant and the insurer to conclude an insurance contract and collects brokerage commission according to law. 340

Article 124 341

The insurer shall assume the liability for the acts of insurance agents in handling the insurance business on behalf of the insurer according to the authorization. 342

An insurance agent engaging in agency business of life insurance may not accept commission from two or more than two insurers concurrently. 343

Article 125 344

Where a loss, due to the mistake of the insurance broker, is caused to the applicant or the insured, the insurance broker shall bear the liability to indemnify therefore. 345

Article 126 346

Insurance agents and insurance brokers, when handling insurance businesses, may not take the advantage of their administrative power, positions or occupation as well as other unfair means to force, induce or restrict insurance applicants in concluding insurance contracts. 347

Article 127 348

Insurance agents and insurance brokers shall meet the qualification requirements set up by the financial supervision and control department, obtain the license for engaging in the insurance agency business or the license for engaging in the insurance brokerage business issued by the financial supervision and control department, complete registration with the administrative department for industry and commerce, obtain their business licenses, and pay the guarantee money or buy a professional liability insurance. 349

Article 128 350

Insurance agents and insurance brokers shall have their own business places, set up special books to record the collection and payment conditions of insurance agency business or brokerage business, and accept supervision by the financial supervision and control department. 351

Article 129 352

An insurance company shall set up a registration book of its insurance agents. 353

Article 130 354

The provisions of Articles 105, 107 and 117 of this Law shall apply to insurance agents and insurance brokers. 355

Chapter VII - Legal Responsibility 356

Article 131 357

Where an insurance applicant, an insured or a beneficiary commits one of the following acts, carries out activities of insurance deceit, and constitutes a criminal responsibility shall be investigated according to law: 358

1. the applicant intentionally falsifies the subject-matter insured so as to cheat for the insurance benefit; 359
2. falsifying the occurrence of an insurance accident which has not occurred so as to cheat for the insurance benefit; 360
3. intentionally to cause an insurance accident with losses afflict on property so as to cheat for the insurance benefit; 361
4. intentionally to cause a life insurance accident such as the death, injury, disability or disease of the insured so as to cheat for the insurance benefit; or 362
5. forging or altering proof, materials or other evidences relating to the insurance accident, or instigation inducing or paying other to provide false proof, materials or other evidences, fabricating false cause, or exaggerating degree of losses so as to cheat for the insurance benefit. 363

Whoever commits one of the acts listed in the preceding paragraph, if the circumstance is of minor nature and does not constitute a crime, shall be given an administrative penalty according to relevant regulations of the state. 364

Article 132

365

Where an insurance company and its employee(s), during insurance business activities, conceal important information relating to the insurance contract, cheat the applicant, the insured or the beneficiary, or refuse to execute the liability of indemnity or payment of the insurance benefit as contracted, which constitutes a crime, criminal responsibility shall be investigated according to law. If no crime is constituted, the financial supervision and control department shall impose a fine of from 10,000 yuan to 50,000 yuan on the said company, and give a penalty on the employee(s) who violates the law and impose a fine of less than 10,000 yuan concurrently.

366

Where an insurance company and its employee(s) hinder the applicant from executing the truthfully-reporting responsibility, or induce the applicant into not executing the truthfully-reporting responsibility, or promise the applicant, the insured or the beneficiary of offering illegal insurance premium rebate or other interests, the financial supervision and control department shall order them to correct, and impose a fine of from 10,000 yuan to 50,000 yuan on the said company, and give a penalty on the employee(s) who violates the law and impose thereon a fine of less than 10,000 yuan concurrently.

367

Article 133

368

Where an insurance agent or an insurance broker cheats the applicant, the insured or the beneficiary during business activities, the financial supervision and control department shall order it to correct., and impose thereon a fine of from 10,000 yuan to 50,000 yuan concurrently, if the case is serious, the financial supervision and control department shall revoke its license for engaging in the insurance agency business or its license for engaging in the insurance brokerage business. If a crime is constituted, criminal responsibility shall be investigated according to law.

369

Article 134

370

Where any employee of insurance companies takes the advantage of his post, intentionally fabricates an insurance accident not occurred and makes false indemnity so as to cheat for the insurance benefit, criminal responsibility shall be investigated according to law.

371

Article 135

372

Whoever, in violation of the provisions of this Law and without approval, establishes an insurance company or engages in illegally commercial insurance business activities, shall be investigated for criminal responsibility according to law, and the financial supervision and control department shall annul it. If these is of a minor nature and no crime is constituted, administrative penalty shall be given therefore.

373

Article 136

374

Whoever, in violation of the provisions of this Law, engages in the insurance business beyond the approved business scope, shall be ordered by the financial supervision and control department to correct and to return the insurance premium already collected, and shall be confiscated its illegal gains if there is such gains, and imposed thereon a fine equivalent to more than one times and less than five time of the illegal gains concurrently, if there is no illegal gains, imposed thereon a fine of from 100,000 yuan to 500,000 yuan, and if it fails to make correction beyond the set time limit or serious result is caused, shall be ordered to suspend its business for rectification or revoked its license for engaging in the insurance business.

375

Article 137

376

Where an insurance company, in violation of the provisions of this Law, changes without approval such matters and items as the company's designation, articles of association, registered capital or business place of the company or its branch organization, the financial supervision and control department shall order it to make correct and impose thereon a fine of from 10,000 yuan to 100,000 yuan concurrently.

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Article 138

378

Where an insurance company, in violation of the provisions of this law, commits one of the following acts, the financial supervision and control department shall order it to make correction and impose thereon a fine of from 50,000 yuan to 300,000 yuan concurrently, and if the case is serious, the department may restrict the company's business scope and order it to suspend to accept new businesses or revoke its license for engaging in the insurance business:

379

1. failing to allocate guarantee fund according to regulations or using, in violation of regulations, the guarantee fund; 380
2. failing to allocate or carry forward undue liability reserve fund according to regulations or failing to allocate outstanding loss reserve according to regulations; 381
3. failing to allocate insurance guarantee fund and accumulated fund according to regulations; 382
4. failing to carry out outward reinsurance business according to regulations; 383
5. using capital of the insurance company in violation of regulations; 384
6. setting up branch organizations or representative offices without approval; or 385
7. splitting or merging without approval. 386

Article 139

387

Where an insurance company, in violation of the provisions of this law, commits one of the following acts, the financial supervision and control department shall order it to make correction, and if failing to make correction within the set time limit, impose a fine of from 10,000 yuan to 100,000 yuan:

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1. failing to submit, as required, relevant reports, statements, documents and materials or

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2. failing to submit, as required, the insurance clauses and insurance premium rate for the planned insurance coverage for the record.

390

Article 140

391

Whoever, in violation of the provisions of this law, commits one of the following acts, shall be ordered by the financial supervision and control department to make correction, and imposed a fine of from 100,000 yuan to 500,000 yuan:

392

1. providing false reports, statements, documents or materials; or

393

2. refusing or hindering inspection and supervision carried out according to law.

394

Article 141

395

Whoever, in violation of the provisions of this Law, commits one of the following acts, shall be ordered by the financial supervision and control department to made correction, and imposed a fine of from 50,000 yuan to 300,000 yuan:

396

1. over insurance and the case is serious; or

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2. accepting an insurance under which death is the prerequisite of payment of the insurance benefit for a person without civil capacity.

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Article 142

399

Whoever, in violation of the provisions of this Law, illegally engages in insurance agency business or insurance brokerage business without obtaining a license for engaging in the insurance agency business or a license for engaging in the insurance brokerage business, shall be annulled by the financial supervision and control department, confiscated its illegal gains, and imposed a fine equivalent to more than five times and less than 10 times of its illegal gains. If a crime is constituted, criminal responsibility shall be investigated according to law.

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Article 143

401

With respect to the insurance company's senior executive personnel held directly re-

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sponsible for and other persons held directly responsible for the act which was committed in violation of the provisions of this Law but does not constitute a crime, the financial supervision and control department may, according to the specific circumstances, give warning order a replacement and impose a fine of from 5,000 yuan to 30,000 yuan.

Article 144

403

Whoever, in violation of the provisions of this Law, causes damage or loss to others, shall bear civil responsibility according law.

404

Article 145

405

Whoever approves the application for establishment of an insurance company which fails to meet the requirements on establishment provided in this Law or approves the application insurance agent or insurance broker which fails to meet the requirements on agency or brokerage, shall be given an administrative penalty, if the case is serious and a crime is constituted, criminal responsibility shall be investigated according to law.

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Article 146

407

If any person of the financial supervision and control department, in exercising supervision and control over the insurance business, abuses his duty and power, practices favoritism for personal gains or neglects his duty of office which constitutes a crime, criminal responsibility shall be investigated according to law, if no crime is constituted, administrative penalty shall be given thereto.

408

Chapter VIII - Supplementary Provisions

409

Article 147

410

The relevant provisions of the Maritime Law shall apply to marine insurance, and in absence of the provisions in the Maritime Law, the relevant provisions of this Law shall apply.

411

Article 148

412

The provisions of this Law shall apply to the establishment of insurance companies with foreign investment, or branch companies of foreign insurance companies within the territory of China, where laws and administrative regulations have separate provisions, such provisions shall apply.

413

Article 149

414

The state supports to develop the insurance business which serves agricultural production. Agricultural insurance shall be provided separately by laws and administrative regulations.

415

Article 150

416

Laws and administrative regulations shall separately provide on insurance organizations of other natures other than those insurance companies provided by this Law.

417

Article 151

418

Those insurance companies which, in accordance with the regulations of the State Council, were approved to be established prior to the enforcement of this Law, shall continue to remain. Among them, those which fail to meet completely the requirements provided by this Law shall make to met such requirements within a set time limit. The State Council shall formulate the concrete measures thereon.

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Article 152

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This Law shall enter into force on October 1, 1995.

421

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