

Enterprise Insolvency Law of the People's Republic of China

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CHAPTER 1 GENERAL PROVISIONS

Article 1

This Law is formulated for regulating enterprise insolvency practice and activities, fair liquidation of debts, protecting the legitimate rights and interests of creditors and debtors, maintaining the order of the socialist market economy.

Article 2

Where enterprise with legal person status is unable to pay off debts falling due and the debtor's asset fails to meet the debts or the debtor lacks obvious ability to pay off the debts, all debts shall be liquidated in accordance with rules prescribed herein.

Where enterprise with legal person status meets the abovementioned tests or it could be obviously expected to become insolvent, the debtor may be reorganized in accordance with rules prescribed herein.

Article 3

Insolvency case shall be heard by the People's Court where the debtor is domiciled.

Article 4

Where there is no relevant rule in this Law applicable to the insolvency case, rules prescribed in Civil Litigation Law shall be applied for reference.

Article 5

Insolvency procedures commenced in accordance with this Law is bounding to debtor's property located outside the territory of the People's Republic of China (the P.R.C.).

Where the verdict or ruling entered into by foreign court involving the debtor's property within P.R.C.'s territory requires the acceptance and execution by People's Court, People's Court could based upon relevant petition or requests, render the ruling of acceptance and execution in compliance with the international agreements to which P.R.C. is a party or after checking the foreign verdict or ruling based on mutual reciprocity principle ascertains that there is no violation of basic principles of P.R.C. Laws, no detriment to state sovereignty, security and social public interests, no harm to the legitimate rights and interests of creditors in P.R.C..

Article 6

Hearing the insolvency case, the People's Court shall safeguard the legitimate rights and interests of the employees of the insolvent enterprise in conformity with law and bring officers of the insolvent enterprise to liabilities they shall bear in accordance with law.

CHAPTER 2 PETITION FOR INSOLVENCY AND ACCEPTANCE OF INSOLVENCY CASE

SECTION 1 PETITION FOR INSOLVENCY

Article 7

Where the debtor meets the tests stipulated in Article 2 of this law, it may file petition for Reorganization, composition, or liquidation with the People's Court.

Where the debtor is unable to pay off debts falling due, its creditors may file petition for reorganization or liquidation with the People's Court.

Where debtor with legal person status is dissolved without being liquidated or with pending liquidation and its assets fail to meet debts falling due, those responsible for liquidating the enterprise shall file liquidation petition with the People's Court.

Article 8

When a debtor or creditor files an application for insolvency with the People's Court, the applicant shall submit an Application Form for Insolvency Case and relevant evidence to the court.

Upon filing petition for insolvency, relevant evidences shall be submitted to the People's Court.

Insolvency petition shall include following issues:

- (1) Basic situation of petitioner and petitionee;
- (2) Purpose of filing petition;
- (3) Facts and grounds of petitioning;
- (4) Other matters the People's Court deems as appropriate.

Where the petition is filed by the debtor, the debtor shall submit to the People's Court a specification on its property, a detailed list of debts and credits, relevant financial and accounting reports, employee's resettlement scheme to be adopted, payment of employees wages and social insurance premium.

Article 9

The petitioner may withdraw the insolvency petition before the case is accepted by the People's Court.

SECTION 2 ACCEPTANCE OF INSOLVENCY CASE

Article 10

The People's Court shall notify the debtor within 5 days upon receiving the insolvency petition filed by the creditor. The disgruntled debtor may raise opposition with People's Court within 7 days upon receiving the notification. The People's court shall rule to accept the case or not within

10 days upon the expiration of aforesaid 7 days.

The People's Court shall rule whether to accept the insolvency petition or not within 15 days upon receiving the petition under circumstances other than those prescribed in previous paragraph

Where special circumstances entail the extension of abovementioned case acceptance period, it could be extended by 15 days if prior approval obtained from higher People's Court.

Article11

The People's Court shall serve ruling of accepting the case to the petitioner within 5 days upon making the ruling.

Where the petition is filed by creditor, The People's Court shall serve the ruling to the debtor within 5 days upon making it. The debtor shall submit to the People's Court a specification on its property, a detailed list of debts and credits, relevant financial and accounting reports, employees' resettlement scheme to be adopted, payment of employee's wages and social insurance premium.

Article 12

The People's Court shall serve the ruling not to accept the case with reasons indicated to the petitioner within 5 days upon the acceptance of the case. The petitioner in disagreement with the ruling may bring an appeal to the higher People's Court within 10 days upon receiving the ruling.

Where the People's Court upon finding the debtor fails to meet the tests as required by article 2 of this law after accepting the case but before declaring the debtor insolvent, the case could be ruled to be dismissed. The petitioner may bring an appeal to the higher People's Court within 10 days upon receiving the ruling where there is any disagreement to the ruling.

Article13

The People's Court shall appoint an Administrator at the time when the case is accepted.

Article14

The People's Court shall notify the known creditors within 15 days after the ruling of accepting the insolvency petition is made and make a public announcement of the ruling.

A notification and public announcement shall include the following matters:

- (1) Names or titles of the petitioner and petitionee;
- (2) Time when the insolvency case is accepted;
- (3) Time limit, place and points for attention when declaring claim;
- (4) Name or title and place of business of the administrator;
- (5) Requirement that the debtor's debtor make payment to the Administrator and holder of a debtor's property deliver the property to the Administrator;
- (6) Date and venue of the first convention of creditors meeting;
- (7) Other matters that the People's Court deems as appropriate to be notified or announced.

Article15

Starting from the date when the ruling of the case is served to the debtor to the date when the procedure is terminated, relevant personnel of the debtor shall bear the following obligations:

- (1) To appropriately keep all the property, seal, accounting books, documents, data, and other articles under possession and management;

(2) To work as required by the People's Court and the Administrator and respond to inquiries in strict accordance with the facts;

(3) To attend creditor's meetings and respond to inquiries from creditors in strict accordance with facts;

(4) Not to leave the place of domicile without obtaining prior consent from the People's Court.

(5) Not to be director, supervisor, superior officer of other enterprise.

Relevant personnel prescribed in this article refer to legal representative of enterprise and those financial and accounting personnel as well as other managerial personnel confirmed by the People's Court.

Article 16

Payment made to any specific creditor after the case being accepted by the People's Court is void.

Article 17

After the People's Court accepts the insolvency case, the debtor's debtor shall make payment to the Administrator and holder of a debtor's property shall deliver the property to the Administrator. Where debtor's debtor or holder of debtor's property make payment or delivery to the debtor by intentionally violating the previous article with the result of harm being caused to creditors, obligation to make payment or delivery to the administrator shall not be discharged.

Article 18

After the People's Court accepts the insolvency case, the Administrator is entitled to reject or accept the contract entered into prior to the acceptance of the case and underperformed by debtor and its counterparty. Where the Administrator fails to notify the counterparty within 2 months since the acceptance of the insolvency case or fails to respond within 30 days from the date of receiving interpellation from its counterparty, the contract shall be deemed as being rejected.

Article 19

Once the People's court accepts the insolvency case, all judiciary measures taken against the debtor's property for the purpose of preserving the property and all execution proceedings shall be stayed.

Article 20

Once the People's court accepts the insolvency case, pending civil or arbitral cases involving the debtor shall be stayed; Only after the Administrator takes over the debtor's property shall the stay imposed upon the pending civil or arbitral cases be lifted.

Article 21

Once the case is accepted, civil cases involving debtor shall be brought before the People's Court accepting the insolvency petition.

CHAPTER 3 THE ADMINISTRATOR

Article 22

The Administrator is appointed by the People's Court.

The creditors meeting may request the People's Court to replace the administrator who may not perform functions and duties in accordance with law in an impartial way or cannot live up to mandatory functions or duties.

Rules on appointing and compensating the Administrator shall be made by Supreme People's Court.

Article 23

The Administrator shall perform functions and duties in accordance with this Law, report to the People's Court and accept the supervision from creditors meeting and creditors committee.

The Administrator shall attend and report to creditors meeting on the performance of its duties and answer inquiries from creditors meeting.

Article 24

In light of the actual situations of the debtor and after soliciting opinions from relevant social intermediary institutions, the People's Court may appoint member on it with related professional expertise and practice license to be the Administrator.

Following circumstances disqualify to be the Administrator:

- (1) Once bearing criminal penalties due to committing crimes intentionally;
- (2) License once being revoked;
- (3) Being an interested party to the case;
- (4) Other circumstances the People's Court deems as disqualified.

Natural person being the Administrator shall be covered by the Professional Liability Insurance.

Article 25

The Administrator performs the following functions and duties:

- (1) Takes over the debtor's property, seals, accounting books, documents, data and other articles;
- (2) Investigates and formulates reports on the debtor's property;
- (3) Deals with the internal and management affairs;
- (4) Decides the debtor's routine and other necessary expenses;
- (5) Decides to continue or close the business operation prior to the first convention of creditors meeting;
- (6) Manages and disposes of the debtor's property;
- (7) Participates in the litigation, arbitration or other legal proceedings on behalf of the debtor;
- (8) Proposes the convention of creditors meeting;
- (9) Other functions and duties deemed as appropriate by the People's Court.

Rules regarding the Administrator's functions and duties stated otherwise in this Law shall prevail.

Article 26

Prior consent from the People's Court shall be obtained if the Administrator decide to continue or

close the debtor's business operation or circumstances covered under article 69 occur prior to the first convention of creditor meeting.

Article27

The Administrator shall perform functions and duties with due diligence and loyalty.

Article28

The Administrator may appoint necessary working personnel provided prior consent obtained from the People's Court.

Compensation paid to the Administrator shall be decided by the People's Court. Disagreement over the court-decided compensation from the creditors meeting could be brought before the People's Court.

Article29

The Administrator is prohibited from resigning without justifications. Resignation from being the Administrator requires the prior approval from the People's Court.

CHAPTER 4 THE DEBTOR'S PROPERTY

Article30

The debtor's property includes property belonging to the debtor when the insolvency case is accepted and acquired subsequent to the acceptance of the case but prior to the termination of the insolvency proceeding.

Article31

The Administrator shall request the People's Court to retrieve the following activities falling within 1 year upon the acceptance of the insolvency case:

- (1) Transferring property without consideration;
- (2) Transacting property at obviously unreasonable prices;
- (3) Providing security for unsecured debt;
- (4) Paying undue debts;
- (5) Releasing claims.

Article32

The Administrator shall request the People's Court to recall payment to the specific creditor made within 6 months upon the occurrence of scenario stated in paragraph 1 of article 2 unless specific payment is beneficial to the debtor's property.

Article33

The following activities involving the debtor's property is void:

- (1) Hiding, transferring property for the purpose of avoiding debts;
- (2) Fabricating debts or recognizing fabricated debts.

Article34

The Administrator shall recover the debtor's property obtained through activities stipulated in Article31, Article32 or Article33.

Article35

Where capital contributor of the debtor fails to contribute to the share he subscribed for after the case being accepted, the Administrator shall require the capital contributor to make up the balance without being restricted to the capital contribution period limit.

Article36

The Administrator shall recover any unusual income acquired and property misappropriated by the director, supervisor and other managerial officers of the debtor by taking advantages of their positions.

Article 37

The administrator may recover the pledged assets, assets under lien either by paying off the pledged or lien debts or providing security acceptable to the creditor after the case being accepted. Where the value of the pledged or lien assets is below that of the secured debt, the value of payment and substitute security stated in previous paragraph shall be calculated by its market value.

Article 38

Owner of the property occupied by the debtor may take back it property through the Administrator unless provided otherwise herein this Law.

Article 39

Where when the insolvency case is accepted and the subject matter the seller has already dispatched and for which the debtor has not paid the full price is not received by the debtor, the seller may take back the subject matter that is under delivery. Alternatively the Administrator may pay off the full price and request the seller to deliver the subject matter.

Article40

Creditor who owes debt to the debtor prior to the acceptance of the petition for insolvency may be offset to the Administrator. Offset is not allowed under any of the following circumstances:

- (1) Creditor gets claim owned by the debtor to third party after petition for insolvency is accepted;
- (2) Creditor runs into debt to the debtor with the knowledge that the debtor fails to pay debts falling due or petitions for insolvency; unless debts incurred due to reasons provided in law or one year before petitioning for insolvency;
- (3) Debtor of the debtor acquires claim to debtor with the knowledge that the debtor fails to pay debts falling due or petitions for insolvency; unless debts incurred due to reasons provided in law or one year before petitioning for insolvency;

CHAPTER 5 INSOLVENCY COST AND COMMON DEBT

Article41

Costs incurred hereunder after case being accepted are insolvency costs:

- (1) Litigation cost of the insolvency case;
- (2) cost for administration, appraisal and distribution of the debtor's property;
- (3) Remuneration and compensation for the Administrator to perform functions and duties as well as costs for employing working personnel by the Administrator.

Article42

The following debts incurred hereunder after case being accepted are common debts:

- (1) Debts incurred due to requesting the contractual counterparty by the Administrator or debtor to perform debts underperformed by both sides;
- (2) Debts incurred from voluntary service to the debtor's property;
- (3) Debts incurred from unjust enrichment to the debtor's property;
- (4) Compensation and premium for social insurance paid for continued operation of the debtor's business and debts incurred as a result thereof,;
- (5) Physical injury debt caused by the Administrator or relevant personnel during the performance of functions and duties;
- (6) Physical injury debt caused by the debtor's property.

Article43

Insolvency costs and common debts shall be paid off instantly from the debtor's property.

Where a debtor's property is insufficient to pay off the insolvency costs and common debts, the costs for insolvency shall be paid off in priority.

Where the debtor's property is insufficient to pay off the insolvency costs or common debts, payments should be made on pro rata basis.

Where the debtor's property is insufficient to pay off the insolvency costs, the Administrator shall apply to the People's Court for termination of the insolvency proceeding. The People's Court shall rule to terminate the insolvency proceeding within 15 days after receiving the application.

CHAPTER 6 CLAIM DECLARATION

Article44

The creditor to whom the debtor owns when the case is accepted shall exercise its right in accordance with proceedings prescribed herein this Law.

Article45

After the case being accepted the People's Court shall confirm a time limit for claim declaration. The time limit shall be no less than 30 days and no more than 3 months.

Article 46

Immature claims shall be deemed mature at the time when case is accepted. Interests on the claims shall cease to be counted when case is accepted.

Article 47

Contingent claim, claim with time limit and pending claims under litigation or arbitration may be declared.

Article 48

Creditor shall declare claim to the Administrator within the time limit confirmed by the People's Court.

Wages, medical fee, physical injury and disability compensations, compensations for a bereaved family owed by the debtor to the employees, basic pension and medical insurance premium payable by the debtor to the employees' private account, other compensations payable by the debtor to the employees in accordance with law and administrative rules and regulations are exempt from being declared but shall be listed and announced by the Administrator upon checking. Employee in disagreement as to the labor claim list may require the Administrator to correct. Where the Administrator refuses to correct, employee may bring lawsuit before the People's Court.

Article 49

The creditor shall explain in written the amount and security provision of the claim with relevant evidences submitted. Joint and several claims shall be indicated.

Article 50

Joint and several claims could either be declared jointly or by one on behalf of all creditors.

Article 51

Guarantor or joint debtors of the debtor after paying off the debts owed by the debtor may declare claims within the paid-up amount.

Guarantors or joint debtors of the debtor may declare the future subrogation claim without paying off the debts for the debtor, unless the creditor has declared the full amount of claim to the Administrator.

Article 52

Where insolvency proceedings are ruled being applied to several and joint debtors, creditors may declare claims in full amount in each insolvency case separately.

Article 53

Where the Administrator or debtor dissolve the contract in accordance with provisions stated herein, damages claim arising thereof or in connection therewith may be declared by the aggrieved party.

Article 54

Where the agent of the debtor without the knowledge of the application of insolvency proceeding to the debtor continue to handle the entrusted matters, claims arising thereof may be declared.

Article 55

Where procedure prescribed herein this Law is ruled to be applied to the debtor as the bill drawer, payment or acceptance of the bill by the drawee may be declared as claims.

Article 56

Claims without being declared within the time limit confirmed by the People's Court may be declared prior to the last distribution of insolvent property; however, distribution made prior to the declaration will not be affected. Costs arising out of checking and confirming late declared claims shall be borne by the declaring party.

Creditor failing to declare claim is prohibited from exercising rights prescribed herein.

Article 57

After receiving declarations materials with regard to creditor's rights, the Administrator shall register the materials on claims declaration, examine the declared claims and formulate the claims list.

The claim list and the materials on claims declaration shall be kept by the Administrator for interested parties to refer to.

Article 58

The claims list made in accordance with Article 57 shall be submitted to the first creditors meeting for verification.

Where there is disagreement from the debtor and creditors, the People's Court shall rule to confirm claims list.

Where there is dispute over claims list by a debtor or creditor, complaint could be brought before the People's Court accepting the case.

CHAPTER 7 CREDITORS MEETING

SECTION 1 GENERAL PROVISIONS

Article 59

Members on the creditors meeting refer to creditors with their claims declared in accordance with law and they are entitled to attend the creditors meeting with right to vote.

The creditor with claim not being confirmed is prohibited from exercising voting right unless the People's Court could confirm claim temporarily only for the purpose of exercising voting right.

The secured creditor has no voting right over matters listed (7) and (10) in first paragraph of article 61 before right to be paid in priority is disclaimed.

The creditor may entrust his agent to attend the creditors meeting and exercise the voting right. The agent shall submit letter of attorney to the People's Court or chairman of creditors meeting. The creditors meeting shall have representative of the employees and labor union to attend and voice their opinions to matters of their concern.

Article60

A creditors' meeting has one chairman. The chairman shall be designated by the People's Court from the creditors with voting right.

Chairman of the creditors meeting is empowered to preside over the creditors meeting.

Article61

The creditors meeting perform the following functions and powers:

- (1) Checking claims;
- (2) Requesting the People's Court to replace the Administrator, checking the remuneration and compensation of the Administrator;
- (3) Supervising the Administrator;
- (4) Selecting and replacing members of the creditors committee;
- (5) Deciding to continue or close the debtor's business;
- (6) Adopting Reorganization plan;
- (7) Adopting composition agreement;
- (8) Adopting management plan on the debtor's property;
- (9) Adopting realization plan on the insolvent property;
- (10) Adopting distribution plan on the insolvent property;
- (11) Other matters the People's Court holds to be decided by the creditors' meeting.

A creditors' meeting shall formulate resolutions upon the discussed matters in the form of memorandum.

Article62

The first creditors meeting shall be convened by the People's Court within 15 days after expiration of the time limit for the claim declaration.

Meetings afterwards are convened as the People's Court deems necessary or upon proposals made to the chairman of the creditors meeting by the Administrator, the creditors committee, creditors with claim amounting to more than one-fourth of the total.

Article63

The Administrator shall notify the known creditors fifteen days in advance of the convention of creditors' meeting.

Article64

Resolutions made at a creditors meeting may be deemed as being adopted provided more than half of the creditors with voting right and present at the meeting whose claim exceeds half of the total unsecured claims adopt it or unless provided otherwise herein this Law.

Creditor with the belief that resolution made at creditors meeting violates the law and impairs his

interests may within fifteen days upon the adopting of the resolution apply to the People's Court to revoke the resolution and order the creditors meeting to remake a resolution.

Resolutions adopted at creditors meetings is binding to all creditors.

Article65

Matters listed in Item 8, 9, Paragraph One of Article56 failing to be resolved by the creditors meeting shall be ruled by the People's Court.

Matter listed in Item 10 Paragraph One of Article 56 without failing to be resolved by the creditors meeting shall be ruled by the People's Court.

The People's Court may announce its ruling on matters prescribed in the previous two Paragraphs at the creditors meeting or may notify the creditors later.

Article66

The creditor(s) with their(its) claim amounting to more than half of the unsecured claim in disagreement with the ruling made by the People's Court according to second Paragraph of article 65 may apply to the same People's Court for reviewing the ruling within 15 days upon the announcement of the ruling or after receiving the ruling. The ruling is not affected by the review.

SECTION 2 CREDITORS COMMITTEE

Article67

The creditors meeting may establish creditors committee. The creditors committee shall be composed of creditor's representative appointed by creditors meeting and one representative from the debtor's employees or labor union. Members on the creditors committee shall be no more than 9.

The appointment of members on the creditors committee is subject to approval by the People's Court in written.

Article68

The creditors committee exercises the following powers and functions:

- (1) Supervising the management and disposition of the debtor's property;
- (2) Supervising distribution of the insolvent property;
- (3) Proposing the convention of creditors meetings;
- (4) Powers entrusted by the creditors meeting.

The creditors committee is entitled to require the Administrator or relevant personnel of the debtor shall make explanations or provide relevant documents within the scope of their functions and duties as required by the creditors committee in the course of performing powers.

Where the Administrator or relevant personnel of the debtor in violation of this Law refuses to accept supervision, the creditors committee may request the People's Court to render the ruling regarding the supervision issue; The People's Court shall make a ruling within 5 days upon receiving the request.

Article69

The Administrator shall report the following matters to the creditors committee without undue delay:

- (1) Transferring the ownership of real estate;
- (2) Transferring such property rights as mining right, tenure intellectual property rights and other property rights;
- (3) Transferring all the stock or business;
- (4) Granting a loan;
- (5) Providing security;
- (6) Assigning claim or transferring securities;
- (7) Performing contract unperformed by the debtor and its counterparty;
- (8) Releasing rights;
- (9) Taking the secured property back;
- (10) Other matters in relation to property disposition having a material effect on creditor interest.

Activities in relation to the previous paragraph shall be reported to the People's Court without undue delay where there is no creditors committee.

CHAPTER 7 REORGANIZATION

SECTION 1 PETITION FOR AND PERIOD OF REORGANIZATION

Article 70

Either the debtor or the creditor may file the reorganization application with the People's Court in accordance with provisions prescribed herein.

Where the creditor file the liquidation application, the debtor or capital contributor holding more than one tenth of debtor's registered capital may file the reorganization application after the People's Court accepts the insolvency case but before the debtor is declared insolvent.

Article 71

Where examination reveals that the application for Reorganization satisfies the Provisions of this law, the People's Court shall rule the debtor to be reorganized.

Article 72

The Reorganization period commences from the date when the People's Court rules the debtor to be reorganized to the date when the Reorganization is ruled to be terminated.

Article 73

During the Reorganization period, the debtor may under the Administrator's supervision manage its property and handle its business affairs upon the debtor's request and approved by the People's Court.

The Administrator taking over the debtor's property and business affairs shall transfer the property and business affairs to the debtor once the debtor in possession stated in first paragraph occur with the accompanying result that functions and duties of the administrator are performed by the debtor.

Article74

Where the property and business affairs are handled by the Administrator, The Administrator may employ managerial and business personnel of the debtor.

Article75

During the Reorganization period, the secured creditors over the specific asset are stayed from realizing claims. Where the secured asset is at the risk of being destroyed or its value is at the risk of being reduced dramatically to the extent of impairing the rights of secured creditors, the secured creditors may request the People's Court to be exempt from the stay.

During the Reorganization period, the debtor or the Administrator may provide security to the loan obtained for the purpose of continuing business.

Article76

Where the owner of the property which is under debtor's possession on legitimate grounds requests to take back the property during the Reorganization period, previously agreed requirements shall be met.

Article77

During the Reorganization period, the debtor's capital contributor is prohibited from demanding the distributive interests on investment.

During the Reorganization period, directors, managers and other senior managerial personnel of the debtor shall not transfer shares they hold issued by the debtor unless the prior approval obtained from the People's Court.

Article78

During the Reorganization period, upon the request of interested parties, the People's Court shall rule to terminate the Reorganization procedure and declare the debtor insolvent if the following circumstances occur:

- (1) The business and financial situation of the debtor deteriorate and chances of being saved are slim;
- (2) The debtor act with fraud, decrease its property in bad faith, commit acts which are apparently disadvantageous to creditors;
- (3) The debtor acts lead to the incapacitation of the Administrator.

SECTION 2 FORMULATION AND ADOPTION OF REORGANIZATION PLAN

Article 79

The debtor or the Administrator shall submit Reorganization plan to the People's Court and creditors meeting within 6 months upon the ruling to be reorganized made by the People's Court.

The People's Court may extend 3 months upon the expiration of 6 months prescribed in preceding paragraph based on the request made by the debtor or the Administrator with justification.

Where the debtor or the Administrator fails to submit the reorganization plan in accordance with the required time limit, the People's Court shall rule to terminate reorganization procedure and declare the debtor as insolvent.

Article 80

Where the property and business affairs are handled by the debtor, the Reorganization plan shall be formulated by the debtor.

Where the property and business affairs are handled by the Administrator, the Reorganization plan shall be formulated by the Administrator.

Article 81

The draft plan of the Reorganization shall include the following matters:

- (1) Management scheme of debtor;
- (2) Classification of the claims;
- (3) Adjustment scheme of the claims;
- (4) Repayment scheme of the claims;
- (5) Implementation time limit of the Reorganization plan;
- (6) Supervision time limit of the Reorganization plan;
- (7) Other schemes conducive to the Reorganization.

Article 82

The claims are classified as following groups for the purpose of adopting the reorganization plan:

- (1) Secured claims over the debtor's specific asset;
- (2) Labor claims with the reference made to the wage, medical fee, physical injury and disability compensations, compensations for a bereaved family owed by the debtor to the employees, basic pension and medical insurance premium payable by the debtor to the employees' private account, other compensations payable by the debtor to the employees in accordance with law and administrative rules and regulations;
- (3) Tax claims;
- (4) General claims.

The People's Court may set up small claims group within general claims group for the purpose of adopting the reorganization plan as the situation require as necessary.

Article 83

The reorganization plan shall not affect the social insurance premium payable by the debtor other

than those included in item 2, first paragraph of article 82. These creditors are excluded from voting on reorganization plan.

Article 84

The People's Court shall convene creditors meeting within 30 days upon receiving the reorganization draft plan for the purpose of voting and adopting the reorganization plan.

Where more than half of the creditors present at the meeting within the same voting group agree with the reorganization draft plan with its claim amounting to more than two-thirds of the group claims, the draft plan of Reorganization shall be deemed as being adopted by this group.

The debtor or the Administrator shall make explanations about the draft plan of Reorganization to the creditors' meeting and answer inquiries.

Article 85

The investors of the debtor may attend as non voting group creditors' meeting where reorganization draft plan is discussed.

Where the reorganization plan draft involving the adjustment of investor's equities, separate group for investors shall be set up for the purpose of voting on the draft plan.

Article 86

The plan may be deemed as being adopted provided each voting group adopts the reorganization draft plan.

The debtor or the Administrator shall apply to the People's Court for approving the reorganization plan within 10 days upon the adoption of reorganization plan. The People's Court shall render the ruling of approving the reorganization plan and terminate the reorganization proceeding within 30 days upon receiving the application after ascertaining that the plan meets the requirements stated herein with the ruling announced to the public.

Article 87

Where the reorganization draft plan fails to be adopted, the debtor or the Administrator may negotiate with the voting group that does not adopt the reorganization draft plan. This voting group may vote again after negotiation. The compromise reached by the two sides in negotiation shall not impair the interests of the other voting groups.

Where the draft plan of Reorganization fails to be adopted by second voting after negotiation or the disagreeing group refuses to revote, the debtor or the Administrator may apply to the People's Court for approval of the reorganization draft plan if the following condition is met:

(1) Based on the Reorganization draft plan the secured claims are fully paid off over the specific asset, the losses incurred by delayed repayment are fairly compensated and the secured right does not suffer material losses or the secured creditors adopt the reorganization draft plan.

(2) Based on the Reorganization draft plan the labor claim and tax claim are fully paid off, or the labor creditors and tax creditors adopt the reorganization draft plan.

(3) Based upon the reorganization draft plan the general creditors receive no less than what they could expect to receive in the liquidation procedure when draft plan is submitted for approval or the general creditors adopt the reorganization draft plan;

(4) The adjustment of investor equities involved in the reorganization draft plan is fair and

impartial or the investor group adopts the draft plan;

(5) The reorganization draft plan treats creditors within the same voting group fairly and payment sequence provided in draft plan does not violate article 113;

(6) The management scheme put forward by the debtor is feasible.

The People's Court shall rule to approve the reorganization draft plan and terminate the reorganization plan after ascertaining the draft plan meeting the previous paragraph requirement based upon examination within 30 days of receiving application. The ruling shall be announced to the public.

Article 88

Where the reorganization draft plan fails to be adopted and approved by the People's Court in accordance with article 87 or the adopted reorganization plan fails to be approved by the People's Court, the People's Court shall rule to terminate the reorganization procedure and declare the debtor as insolvent.

SECTION 3 IMPLEMENTATION OF REORGANIZATION PLAN

Article 89

The debtor shall implement the adopted reorganization plan.

The Administrator in charge of managing the property and business affairs shall transfer the property and business affairs to the debtor after the People's Court rule to approve the reorganization plan.

Article 90

The Administrator shall supervise the implementation of the Reorganization plan during the supervising time limit provided for in the Reorganization plan commencing from the date when the People's Court rules to approve the Reorganization plan.

The debtor shall report the implementation of the Reorganization plan and its financial status to the Administrator during the supervising time limit.

Article 91

The Administrator shall submit the supervision report to the People's Court upon the expiration of the supervising time limit. The Administrator will not be discharged from its duties until the supervision report is submitted to the People's Court.

The interested parties are entitled to check the supervising report submitted by the Administrator to the People's Court.

The People's Court may decide to extend the supervision time limit of the Reorganization plan upon the application filed by the Administrator.

Article 92

The Reorganization plan approved by the People's Court is binding both to the creditors and the debtor.

Creditors failing to declare claims in accordance with the Provisions as required herein are

prohibited from realizing claims during the implementation of the Reorganization plan and may realize claims on the same repayment terms concerning specific creditor group provided in the Reorganization plan upon finalizing implementing the Reorganization plan.

The repayment liability of the guarantor or other joint debtors of the debtor is not affected by the Reorganization plan.

Article93

Where the debtor is unable or refuses to implement the Reorganization plan, the People's Court shall rule to terminate the implementation of the Reorganization plan as requested by the Administrator or interested parties and declare the debtor as insolvent.

Where the People's Court rules to terminate the implementation of the Reorganization plan, the claim adjustment agreed by the creditors in the reorganization plan loses its effect. Payment obtained by the creditor owing to the implementation of the Reorganization plan remains in force with the unpaid portion of the claim deemed as insolvent claims.

The creditors prescribed in the preceding paragraph may continue to receive distribution only if the other creditors within the same priority are paid to the extent of the same proportion.

Where the situation described in the first paragraph of this article occurs, security provided for implementing the reorganization plan will not be affected.

Article94

The debtor is no longer obligated to pay the debts reduced or discharged in conformity with reorganization plan upon the finalizing implementing the reorganization plan.

CHAPTER 8 COMPOSITION

Article95

The debtor may file composition application either directly with the People's Court in accordance with this law or after the case being accepted by the People's Court but before the debtor being declared insolvent.

The debtor shall submit its composition draft agreement to the People's Court when applying for composition.

Article96

The People's Court shall rule to approve the composition by announcing to the public after ascertaining that composition application satisfies requirements provided herein and convene the creditors meeting to discuss the composition draft agreement.

The secured creditors may realize its claims over the debtor's specific asset once the People's Court rule to approve the composition.

Article97

The composition agreement concluded at the creditors' meeting may be deemed as being adopted provided that over half of the creditors with voting right present at the meeting and claims they

holding representing more two-thirds of the total unsecured claims adopt it.

Article 98

The composition agreement adopted by the creditors meeting is subject to the approval of the People's Court. Once the composition agreement is approved, the People's Court shall rule to terminate the composition procedure and make a public announcement. The Administrator shall transfer the property and business affairs to the debtor and submit working report concerning the performance of powers and functions to the People's Court.

Article 99

Where the draft agreement of composition fails to be adopted by the creditors meeting or the adopted composition agreement fails to be approved by the People's Court, the People's Court shall rule to terminate the composition procedure and declare the debtor insolvent.

Article 100

The composition agreement approved by the People's Court is binding both to all conciliated creditors and the debtor.

The conciliated creditors referred to in the preceding paragraph are unsecured creditors when the case is accepted by the People's Court.

Conciliated creditors failing to declare claims in accordance with the Provisions required herein are prohibited from realizing claims during the implementation of composition agreement and may realize claims under the repayment terms provided in the composition agreement after the composition agreement is implemented.

Article 101

Guarantor and other joint debtors of the debtor payment obligation are not affected by the composition agreement.

Article 102

The debtor shall pay off his debt in accordance with terms prescribed in the composition agreement.

Article 103

The composition agreement shall be ruled by the People's Court to be invalidated on the grounds of the debtor's fraud or other unlawful activities.

With the circumstances prescribed in the preceding paragraph, the repayment creditors obtain based on the composition agreement may not be returned to the extent of same proportion payment of other creditors.

Article 104

Where the debtor is unable or refuses to implement the composition agreement, the People's Court shall rule to terminate the implementation of the composition agreement as requested by conciliated creditors and declare the debtor as insolvent.

Where the People's Court rules to the composition agreement, the claim adjustment agreed by

conciliated creditors in the composition agreement loses its effect. Payment obtained by conciliated creditors owing to implementation of the composition agreement remains in force with the unpaid portion of the claim deemed as claims of insolvent debtor.

The creditors prescribed in the preceding paragraph may continue to receive distribution only if the other creditors are paid to the extent of the same proportion.

Where the situation described in the first paragraph of this article occurs, security provide for implementing composition agreement will not be affected.

Article105

Where the debtor and all creditors reach unanimous agreement as to the disposal of debts and claims after the case is accepted, they may request the People's Court to rule to approve the composition agreement and terminate the insolvency procedure.

Article 106

The debtor is no longer obligated to pay the debts reduced or discharged in conformity with reorganization plan upon the finalizing implementing the composition agreement.

CHAPTER 9 LIQUIDATION

SECTION 1 INSOLVENCY DECLARATION

Article107

Where the People's Court declare the debtor insolvent in accordance with this Law, it shall serve the ruling to debtor within 5 days upon rendering the ruling and the Administrator and within 10 days of rendering the ruling notify the known creditors and make a public announcement.

After the debtor is declared insolvent, the debtor is titled as insolvent person, its property as insolvent property and creditors to the debtor when the People's Court accept the insolvency petition as insolvent claims.

Article108

The People's Court shall rule to terminate the insolvency procedure and make a public announcement on the following grounds prior to the declaration of insolvency:

- (1)Third party either provides security or pays off the debts that fall due;
- (2)The debtor pays off all debts that fall due.

Article109

Secured creditor is entitled to obtain payment in priority over debtor's specific asset.

Article110

Claims without being realized by creditors referred to in article 109 shall be treated as general

ones; secured claims before right in payment priority are disclaimed shall be treated as general ones.

SECTION 2 APPRAISAL, DISPOSITION AND DISTRIBUTION

Article 111

The Administrator shall formulate disposition plan of insolvent property without undue delay and submit it to the creditors meeting for discussion.

The Administrator shall dispose the insolvent property in accordance with the insolvent property disposition plan adopted by the creditors meeting or approved by the People's Court in accordance with first paragraph of article 65.

Article 112

Insolvent property shall be sold off by auction unless otherwise provided in resolutions made by the creditors' meeting.

The insolvent enterprise may be sold either as a whole or in parts. Intangible assets and other assets may be sold separately.

Property not allowed to be auctioned or restricted from being transferred as required by state law shall be disposed of in accordance with ways allowable by state law.

Article 113

After the prior deduction of insolvency costs and common debts from the insolvency property, payment shall be made in the following order:

- 1) Wages, medical fees, physical injury and disability compensations, compensations for a bereaved family owed by the debtor to the employees, basic pension and medical insurance premium defaulted by the debtor to the employees' private account, other compensations payable by the debtor to the employees in accordance with law and administrative rules and regulations;
- 2) Basic social insurance premiums other than those stated in previous paragraph defaulted by the insolvent person and tax payable by insolvent person;
- 3) General claims.

Where the insolvent property is insufficient to pay debts within same payment sequence, distribution shall be made on a pro-rata basis.

Wages of directors, supervisors and senior managerial personnel of the insolvent enterprise shall be calculated on average wage basis.

Article 114

The distribution of insolvent property shall be made in cash unless otherwise resolved by the creditors' meeting.

Article 115

The Administrator shall formulate the distribution plan of insolvent property without undue delay and submit it to the creditors' meeting for discussion.

The distribution plan of insolvent property shall include the following items:

- 1) Name or title and address of creditors participating in the distribution;
- 2) Total amount of claims qualified for the distribution;
- 3) Total amount of distributable insolvent property;
- 4) Sequence, proportion and amount of the distribution of insolvent property;
- 5) The method of distributing the insolvent property.

Upon the distribution plan being adopted by the creditors' meeting, the Administrator shall submit the plan to the People's Court for approval.

Article116

The Administrator implements the distribution plan approved by the People's Court.

In terms of many distributions implemented by the Administrator in accordance with distribution plan the Administrator shall announce the total amount of distributed property and that of claim to which the distribution is made. In terms of final distribution the Administrator shall make public announcement including items listed in paragraph 2, Article117.

Article117

Distributions to the contingent creditors shall be deposited by the Administrator.

Distributions deposited by the Administrator for contingent creditors shall be distributed to other creditors provided the initiation condition is not met or termination condition is met upon the public announcement of final distribution; Should the initiation condition be met or the termination conditions not be met upon the public announcement of final distribution, distributions deposited by the Administrator for contingent creditors shall be made to other creditors.

Article118

The Administrator shall deposit the unclaimed distribution of the insolvent property. Deposited unclaimed distribution without being claimed by creditors after 2 months upon the public announcement of the final distribution shall be deemed as disclaimed distribution which the Administrator or People's Court shall distribute to other creditors.

Article119

The Administrator shall deposit due share of distribution to which pending claims under litigation or arbitration are entitled when the insolvent property is distributed. Deposited distribution without being claimed by creditors after 2 years upon the termination of insolvency procedure shall be distributed to other creditors.

SECTION 3 TERMINATION OF INSOLVENCY PROCEDURE

Article120

Where the debtor has no available property to distribute, the Administrator shall request the People's Court to terminate the insolvency procedure.

Following the final distribution of the insolvency property, the Administrator shall without undue delay submit distribution report to the People's Court and request the People's Court to terminate

the insolvency procedure.

The People's Court shall rule whether to terminate the insolvency procedure or not within 15 days following the Administrator's application. The People's Court shall make a public announcement of the termination ruling.

Article121

The Administrator shall apply for closing registration to the registration of incorporation within 10 days upon termination of insolvency procedure agency holding the termination ruling entered into by the People's Court.

Article122

The duties and functions of the Administrator terminate following the other day of applying for closing registration unless there is pending litigation or arbitration.

Article123

Two years after the termination of insolvency proceeding as per the paragraph 4 in Article 43 or Article122 of the Law, creditors are entitled to apply to the People's Court for additional repayment in conformity with the distribution plan under any of the following circumstances:

I Property which should be recovered in accordance with Article31, Article32 ,Article33 and Article 36 is discovered;

II Other property of the insolvent person which shall be distributed is discovered.

Where the discovered property is insufficient to cover distribution expenses, distribution will not be made and the property shall be turned over to the State treasury.

Article124

The guarantor and other joint debtors of the insolvent person are not discharged from paying the unpaid debts in accordance with liquidation procedure after the termination of the insolvency procedure.

CHAPTER 11 LEGAL LIABILITIES

Article125

Where the violation of fiduciary duty with specific reference made to loyalty and due diligence duty by the director, supervisor or other senior managerial personnel of the enterprise result in the insolvency of the enterprise, they shall bear civil liabilities.

Persons with the previous record are prohibited from acting as director, supervisor or senior manager of any other enterprise within 3 years upon the termination of insolvency procedure.

Article126

Where relevant personnel of the debtor obligated to attend the creditors meeting refuse to attend meeting without justifications after summon is served by the People's Court, the People's Court

may arrest and take them under custody to the court and impose fine in accordance with law. Relevant personnel of the debtor refusing to make statements, answer inquires or making false statements or giving fake inquires in violation of provisions of this law are subject to being fined by the People's Court.

Article127

Where debtor in violation of provisions in this Law refuses to submit or submits false statements on property specification, detailed list of debts and credits, financial and accounting reports, payment of employees' wages and social insurance premium, the People's Court may impose fine upon the directly responsible personnel.

Where debtor refuses to hand over property, seal, accounting books, documents data to the Administrator, or fabricates, destroys relevant property evidences to the extent of obscuring the property status, the People's Court may impose fine upon the directly responsible personnel.

Article128

Where debtor commits acts stated in article 31, 32, 33 to the extent of impairing the creditors' interests, the legal representative and other directly responsible personnel of the debtor are subject to civil liabilities.

Article129

Where relevant personnel of the debtor in violation of this Law leave place of domicile without obtaining prior consent, the People's Court may admonish, detain him or and impose fine in accordance with law.

Article130

Where the Administrator fails to perform duties and functions with loyalty or with due diligence as required by this Law, the People's Court may impose fine. And the Administrator shall in accordance with law compensate losses suffered by creditors the debtor or third party.

Article 131

Acts in violation of law serious enough to constitute crime shall be brought to the justice.

CHAPTER 12 SUPPLEMENTARY PROVISIONS

Article132

Wages, medical fees, physical injury and disability compensations, compensations for a bereaved family owed by the debtor to the employees, basic pension and medical insurance premium payable by the debtor to the employees' private account, other compensations payable by the debtor to the employees in accordance with law and administrative rules and regulations unrealized in accordance with article113 shall be paid from the specific asset of secured creditors stated in article 109 provided these labor claims occur prior to the promulgation of this Law and

exist until this Law goes into effect.

Article133

The insolvency of the state-owned enterprises shall be dealt with in accordance with the relevant regulations promulgated by the State Council within the time limit and to the extent stipulated in regulations issued by the State Council.

Article134

Where financial institutions including but not limited to commercial banks, securities companies, insurance companies meet the tests of article 2, relevant supervisory and regulatory commission for the financial institution under State Council may apply to the People's Court for reorganization or liquidation. Where relevant supervisory and regulatory commission for the financial institution under State Council takes over the financial institution with material business risks or take it under custody, it may apply to the People's Court for staying the civil litigation procedure or execution procedure in which the financial institution is defendant or party against which the execution procedure is filed as the case maybe.

The insolvency of financial institutions shall be dealt with pursuant to the implementation measures formulated by the State Council in conformity with this law and provisions of relevant laws.

Article135

Liquidation of entities other than enterprises with legal person status may refer to this Law for application as stipulated by provisions of other Law.

Article 136

This Law shall enter into effect as of first June 2007. The Enterprise Insolvency Law of the People's Republic of China under Trial Implementation shall be abolished from the date when this law enters into effect.

(The end)

This translation of the law is provided by the Insolvency Law and Restructuring Research Center of the China University of Political Science and Law and supervised and proofread by Professor Li Shuguang September 2006.