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The newly revised Fire Control Law (中华人民共和国消防法): what has been changed?

Issued By	The Standing Committee of National People's Congress
Subject	Fire Control Law
Promulgated on	October 28th 2008
Effective from	May 1st 2009
Source	http://www.npc.gov.cn

On October 28, 2008, the 5th meeting of the Standing Committee of the 11th session of the National People's Congress (NPC) adopted the revision to the Fire Control Law. This is the first time that this Law has been revised since it was issued in 1998. The revision will become effective on May 1, 2009.

According to the revised Law, not all the fire-control design documents for every construction projects are subject to the pre-construction approval and post-construction examination by fire-control department anymore. Subject to such requirements are only the constructions of buildings with, or in the area of, great population density, or special buildings. For other constructions, the fire-control design documents and the self-examination documents only need to be submitted to the fire-control department for its records, although, the fire-control department may conduct random examination of those documents.

On the other hand, the legal consequences for a violation of the law have been aggravated. This is mainly reflected in two changes: firstly, a further coercive measure is provided for by the revised Law, i.e. the fire-control department now may temporarily seal up the dangerous parts or place of the buildings, etc.; secondly, the administrative penalty is no longer preconditioned on the violator's failure to rectify its violation upon fire-control department's warning notice. In other words, a person or institution violating the Law may not expect a chance to remedy its violation before being actually punished under the revised Law.

As to the control of the fire-control department's exercise of power, the revised Law adds considerable restrictions on the fire-control department's exercise of power, including that the range of the fine is now specified for the respective violations; the requirement for the fire-control department's compliance with due procedure is tightened for certain acts, etc. Furthermore, the revised Law also expressly forbids the officials of fire-control department to designate brands, sellers, etc. for the fire-control equipments or services.

In addition to the above, the Law has also been revised in other aspects, e.g., the regulation on the quality of fire-control-related products has been strengthened; the insurance for liability to the public for fire accident is promoted; etc.

New law adopted to strengthen the protection of State-Owned Equities in Enterprises (企业国有资产法)

Issued By	Standing Committee of National People's Congress
Subject	State-owned Assets Administration
Promulgated on	October 28th 2008
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Source	http://www.npc.gov.cn

The 5th meeting of the Standing Committee of the 11th session of the National People's Congress (NPC) on October 28, 2008 also adopted the Law on State-owned Equities in Enterprises. This Law will become effective as of May 1, 2009.

In light of the overall huge amount of state-owned equities in enterprises in China, the enactment of this Law is expected to exert great influence in China's economic life.

This Law, as its name indicates, serves the purpose of protecting state-owned equities in enterprises. It therefore concerns four kinds of enterprises: wholly state-invested non-corporate enterprises, wholly state-invested companies, state-held companies, and state-invested companies [non-holding, added by WENFEI].

One of the most difficult issues on protection of state-owned assets is the absence of a specific and responsible organ. Addressing this issue, the Law stipulates that, the state-owned assets supervision and administration authority at the state or local levels, or other government department or institution designated by the respective People's Government shall assume the function as investor for the state-owned equities in enterprises (the competent organ assuming such function is hereinafter referred to as the Responsible Organ).

The Responsible Organ shall act as a "real" investor in every aspects of the operation of the enterprises, including the entitlement to profits allocation, the involvement in making the important decisions, the appointment of managers, etc. Besides, the Responsible Organ shall report to and be supervised by the respective People's Government, e.g., for some important matters of the enterprises, the decisions or action of the Responsible Organ shall be approved by the government first. On the other hand, the specific persons who represent Responsible Organ in fulfilling the latter's functions shall strictly follow its decisions and instructions.

The Law also provides for specific rules on Responsible Organ's exercise of its power in choosing and supervising the management of the enterprises: appointment by the Responsible Organ of the directors, supervisors, and other senior managers of the enterprises shall meet certain conditions and follow the required procedure; without the approval of the Responsible Organ, the directors, supervisors, and other senior managers shall not concurrently assume a position in another enterprise or company, whether this other enterprise or company is a competing company or not. In addition, the managers appointed by the Responsible Organ are subject to annual appraisal and an overall appraisal for his or her term of office has to be conducted by the Responsible Organ.

With regard to the operation of the enterprise with state-owned equities, the Law adds certain restrictions on the so-called "Related Party Transactions". "Related Party" is defined as the enterprises owned or actually controlled by the director, supervisor, or senior manager of the enterprises with state-owned equities, or the close relatives of any of those persons. Related Party Transactions are subject to the approval of the Responsible Organ, and satisfy certain conditions. The Law also expressly requires the Related Party not to gain illicit profits from such transactions.

As another important feature of this Law, it is required that a separate state-owned assets operation budget shall be formulated each year by the government at the respective level.

In addition to the above, the Law also stresses that the government authority shall separate its role as the investor, from the role as the market regulator, and it shall not interfere with the operation of the enterprises; also, the transaction of state-equities in enterprises shall be subject to certain principles, conditions, and procedure; etc.

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