



CHINA LEGAL BRIEFING 23

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1. National

Judicial Interpretation on Sale of Commodity Apartment

In this week, People's Supreme Court published Interpretation of Several Issues Regarding Application of Laws to Disputes Involving Contract on Sale of Commodity Apartments, which was adopted by its Judicial Committee on 24 March 2003 and will take effect as of 1 June this year. There are several points merit highlighting. First, this Rule merely applies to sale of commodity apartments, excluding other types of estate such as apartments for low-income families from its scope of application. Second, advertisements and brochures from the seller are invitation for offer; however, they may constitute offer if they are definite and specific, exerting material impacts on conclusion of contracts and their prices. Such representation forms part of contract, even if it is not explicitly incorporated. Third, shrinking of contractual area does not serve as a good cause for termination of contract unless it exceeds 3%. Fourth, the seller may subject to punitive damages if he, acting in bad faith, breaches the contract or commits fraud, which renders the buyer unable to get the apartment. Fifth, transfer of possession constitutes delivery for the purpose of sale. (www.chinalawinfo.com)

State Council Regulation on Insurance Against Injuries at Work

On 27 April 2003, State Council by its Decree No.375 promulgated Regulation on Insurance Against Injuries at Work, which will take effect as of 1 January 2004.

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This regulation applies to all the enterprises as well as individual business located in China, which are obligated to buy insurance against injuries at work for their employees. Ministry of Labor and Social Security administers such insurance at national level, while local labor bureaus perform such function within their jurisdictions respectively. It should be noted that such circumstances shall be treated as injuries at work: (1) passing away out of acute illness immediately in the working hours and at working place or within 48 hours after emergent treatment; (2) incurring injuries in participating actions for national interests or public interests such as salvage and campaigns against natural disasters. (www.people.com.cn)

SAFE Published 2002 Record of International Balance of Payment

On 9 May 2003, State Administration of Foreign Exchanges published 2002 Record of International Balance of Payment. According to this report, in the year of 2002, the situations of international payment are sound for there is surplus both for current accounts and capital accounts. To be specific, under current account, the surplus is USD 354.22 billion, while the surplus under capital account is USD 322.91 billion. As a result, foreign exchange reserve experienced a rise of USD 742.42 billion, amounting to USD 2864.07 billion. (www.safe.gov.cn)

CSRC Signed MOU with Canadian Counterpart

On 8 May 2003, China Securities Regulatory Commission announced that it had signed Memorandum of Understanding on Cooperation in Supervision of Securities and Futures with original members of Canadian regulatory body. This is the 21st MOU concluded between CSRC and its foreign counterparts in this field. (www.csrc.gov.cn)

CIRC Approved New Insurance Products Against SARS

As of 6 May 2003, China Insurance Regulatory Commission has approved 17 special products against SARS put forward by 11 insurance companies including Tai Ping, Xin Cheng, Pacific-Aetna, Allianz, Tai Kang, New China Life, John Hancock, Pacific, Ping An, ING-CAP, Ever-bright & Sun-life. Under the terms of these products, SARS is treated as additional risk. To address the emergency, waiting period is shortened and scope of exclusion is narrowed. (www.circ.gov.cn)

Revised Regulation on Administration of Bonds Issued by Enterprises to Come Out

It is reported that revision of Regulation on Administration of Bonds Issued by Enterprise is nearly completed and the new one is expected to come out in the foreseeable future. There may be five breakthroughs in the revised regulation. First, approval requirement will be replaced by record requirement in the process of issuance. Second, interest rate will be liberated by lifting the existent ceiling of 40% more than banking interest rate. Third, circulation of bonds will be reformed. Fourth, qualified private business will be able to issue bonds. Fifth, funds raised will be used more freely. (www.law-star.com)

New Automobile Industry Development Policy to Be Drafted

Recently, State Reform and Development Commission initiated a consultation for the purpose of drafting new Automobile Industry Development Policy. According to an official from the Commission, the existent Policy is no longer adapted to new developments in this industry. In the blueprint, industries of automobile, motorcycle, and parts will be encouraged. Further, measures will be adopted to prevent imprudent investment and vicious competition. (www.law-star.com)

ICBC Update

Recently, Industry and Commerce Bank of China announced that it would soon open a branch in Macao, which will be the ninth oversea subsidiaries. Further, the bank encouraged people making their payments electronically by exempting those applying for credit cards, whether by telephone or via internet, from service fees for two year. (www.isinolaw.com)

2. Local**Shandong Seeks Foreign Cooperation in Information Industry**

East China province of Shandong has announced that it would like to boost its information industry by seeking foreign cooperation. The provincial department of information industry said the province was eyeing giant information enterprises in Russia, the Republic of Korea, Japan, India, Hong Kong, Macao and Taiwan for investment and cooperation to develop its information industry. Priority will be given to Qingdao, Yantai, Weihai as well as the cities along the railways. (www.isinolaw.com)

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