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LAW OF SUCCESSION OF THE PEOPLE'S REPUBLIC OF CHINA

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CONTENTS

CHAPTER I GENERAL PROVISIONS

CHAPTER II STATUTORY SUCCESSION

CHAPTER III TESTAMENTARY SUCCESSION AND LEGACY

CHAPTER IV DISPOSITION OF THE ESTATE

CHAPTER V SUPPLEMENTARY PROVISIONS

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目 录

第一章 总则

第二章 法定继承

第三章 遗嘱继承和遗赠

第四章 遗产的处理

第五章 附则

CHAPTER I GENERAL PROVISIONS

第一章 总 则

Article 1. This Law is enacted pursuant to the provisions of the Constitution of the People's Republic of China with a view to protecting the right of citizens to inherit private property.

第一条 【立法目的】 根据《中华人民共和国宪法》规定，为保护公民的私有财产

的继承权，制定本法。

Article 2. Succession opens on the death of a decedent.

第二条 【继承的开始】继承从被继承人死亡时开始。

Article 3. Estate denotes the lawful property of a citizen owned by him personally at the time of his death, which consists of:

- (1) his income;
- (2) his houses, savings and articles of everyday use;
- (3) his forest trees, livestock and poultry;
- (4) his cultural objects, books and reference materials;
- (5) means of production lawfully owned by him;
- (6) his property rights pertaining to copyright and patent rights; and
- (7) his other lawful property.

第三条 【遗产范围】遗产是公民死亡时遗留的个人合法财产，包括：

- (一) 公民的收入；
- (二) 公民的房屋、储蓄和生活用品；
- (三) 公民的林木、牲畜和家禽；
- (四) 公民的文物、图书资料；
- (五) 法律允许公民所有的生产资料；
- (六) 公民的著作权、专利权中的财产权利；
- (七) 公民的其他合法财产。

Article 4. Personal benefits accruing from a contract entered into by an individual are inheritable in accordance with the provisions of this Law. Contracting by an individual, if permitted by law to be continued by the successor, shall be treated in accordance with the terms of the contract.

第四条 【承包关系与继承】个人承包应得的个人收益，依照本法规定继承。个人承包，依照法律允许由继承人继续承包的，按照承包合同办理。

Article 5. Succession shall, after its opening, be handled in accordance with the provisions of statutory succession; where a will exists, it shall be handled in accordance with testamentary succession or as legacy; where there is an agreement for legacy in return for support, the former shall be handled in accordance with the terms of the agreement.

第五条 【继承方式】继承开始后，按照法定继承办理；有遗嘱的，按照遗嘱继承或者遗赠办理；有遗赠扶养协议的，按照协议办理。

Article 6. The right to inheritance or legacy of a competent person shall be exercised on his behalf by his statutory agent. The right to inheritance or legacy of a person with limited capacity shall be exercised on his behalf by his statutory agent or by such

person himself after obtaining the consent of his statutory agent.

第六条 【无行为能力人、限制行为能力人继承权、受遗赠权的行使】无行为能力人的继承权、受遗赠权，由他的法定代理人代为行使。

限制行为能力人的继承权、受遗赠权，由他的法定代理人代为行使，或者征得法定代理人同意后行使。

Article 7. A successor shall be disinherited upon his commission of any one of the following acts:

- (1) intentional killing of the decedent;
- (2) killing any other successor in fighting over the estate;
- (3) a serious act of abandoning or maltreating the decedent; or
- (4) a serious act of forging, tampering with or destroying the will.

第七条 【继承权的丧失】继承人有下列行为之一的，丧失继承权：

- (一) 故意杀害被继承人的；
- (二) 为争夺遗产而杀害其他继承人的；
- (三) 遗弃被继承人的，或者虐待被继承人情节严重的；
- (四) 伪造、篡改或者销毁遗嘱，情节严重的。

Article 8. The time limit for institution of legal proceedings pertaining to disputes over the right to inheritance is two years, counting from the day the successor is or should be aware of the violation of his right to inheritance. No legal proceedings, however, may be instituted after the expiration of a period of 20 years from the day succession opens.

第八条 【诉讼时效】继承权纠纷提起诉讼的期限为二年，自继承人知道或者应当知道其权利被侵犯之日起计算。但是，自继承开始之日起超过二十年的，不得再提起诉讼。

CHAPTER II STATUTORY SUCCESSION

第二章 法定继承

Article 9. Males and females are equal in their right to inheritance.

第九条 【男女平等】继承权男女平等。

Article 10. The estate of the decedent shall be inherited in the following order:

First in order: Spouse, children, parents.

Second in order: Brothers and sisters, paternal grand parents, maternal grand-parents.

When succession opens, the successor(s) first in order shall inherit to the exclusion of the successor(s) second in order. The successor(s) second in order shall inherit in default of any successor first in order.

The " children " referred to in this Law include legitimate

children, illegitimate children and adopted children, as well as stepchildren who supported or were supported by the decedent.

The " parents " referred to in this Law include natural parents and adoptive parents, as well as step-parents who supported or were supported by the decedent.

The " brothers and sisters " referred to in this Law include blood brothers and sisters, brothers and sisters of half blood, adopted brothers and sisters, as well as step-brothers and step-sisters who supported or were supported by the decedent.

第十条 【继承人范围及继承顺序】 遗产按照下列顺序继承：

第一顺序：配偶、子女、父母。

第二顺序：兄弟姐妹、祖父母、外祖父母。

继承开始后，由第一顺序继承人继承，第二顺序继承人不继承。没有第一顺序继承人继承的，由第二顺序继承人继承。

本法所说的子女，包括婚生子女、非婚生子女、养子女和有扶养关系的继子女。

本法所说的父母，包括生父母、养父母和有扶养关系的继父母。

本法所说的兄弟姐妹，包括同父母的兄弟姐妹、同父异母或者同母异父的兄弟姐妹、养兄弟姐妹、有扶养关系的继兄弟姐妹。

Article 11. Where a decedent survived his child, the direct lineal descendants of the predeceased child shall inherit in subrogation. Descendants who inherit in subrogation generally shall take only the share of the estate their father or mother is entitled to.

第十一条 【代位继承】 被继承人的子女先于被继承人死亡的，由被继承人的子女的晚辈直系血亲代位继承。代位继承人一般只能继承他的父亲或者母亲有权继承的遗产份额。

Article 12. Widowed daughters-in-law or sons-in-law who have made the predominant contributions in maintaining their parents-in-law shall, in relationship to their parents-in-law, be regarded as successors first in order.

第十二条 【丧偶儿媳、女婿的继承权】 丧偶儿媳对公、婆，丧偶女婿对岳父、岳母，尽了主要赡养义务的，作为第一顺序继承人。

Article 13. Successors same in order shall, in general, inherit in equal shares.

At the time of distributing the estate, due consideration shall be given to successors who are unable to work and have special financial difficulties.

At the time of distributing the estate, successors who have made the predominant contributions in maintaining the decedent or have lived with the decedent may be given a larger share.

At the time of distributing the estate, successors who had the ability and were in a position to maintain the decedent but failed to fulfil their duties shall be given no share or a smaller

share of the estate.

Successors may take unequal shares if an agreement to that effect is reached among them.

第十三条 【遗产分配】同一顺序继承人继承遗产的份额，一般应当均等。

对生活有特殊困难的缺乏劳动能力的继承人，分配遗产时，应当予以照顾。

对被继承人尽了主要扶养义务或者与被继承人共同生活的继承人，分配遗产时，可以多分。

有扶养能力和有扶养条件的继承人，不尽扶养义务的，分配遗产时，应当不分或者少分。继承人协商同意的，也可以不均等。

Article 14. An appropriate share of the estate may be given to a person, other than a successor, who depended on the support of the decedent and who neither can work nor has a source of income, or to a person, other than a successor, who was largely responsible for supporting the decedent.

第十四条 【酌情分得遗产】对继承人以外的依靠被继承人扶养的缺乏劳动能力又没有生活来源的人，或者继承人以外的对被继承人扶养较多的人，可以分配给他们适当的遗产。

Article 15. Questions pertaining to succession should be dealt with through consultation by and among the successors in the spirit of mutual understanding and mutual accommodation, as well as of amity and unity. The time and mode for partitioning the estate and the shares shall be decided by the successors through consultation. If no agreement is reached through consultation, they may apply to a People's Mediation Committee for mediation or institute legal proceedings in a people's court.

第十五条 【继承解决方式】继承人应当本着互谅互让、和睦团结的精神，协商处理继承问题。遗产分割的时间、办法和份额，由继承人协商确定。协商不成的，可以由人民调解委员会调解或者向人民法院提起诉讼。

CHAPTER III TESTAMENTARY SUCCESSION AND LEGACY

第三章 遗嘱继承和遗赠

Article 16. A citizen may, by means of a will made in accordance with the provisions of this Law, dispose of the property he owns and may appoint a testamentary executor for the purpose.

A citizen may, by making a will, designate one or more of the statutory successors to inherit his personal property.

A citizen may, by making a will, donate his personal property to the state or a collective, or bequeath it to persons other than the statutory successors.

第十六条 【遗嘱与遗赠的一般规定】公民可以依照本法规定立遗嘱处分个人财产，并可以指定遗嘱执行人。

公民可以立遗嘱将个人财产指定由法定继承人的一人或者数人继承。
公民可以立遗嘱将个人财产赠给国家、集体或者法定继承人以外的人。

Article 17. A notarial will is one made by a testator through a notary agency.

A testator-written will is one made in the testator's own handwriting and signed by him, specifying the date of its making.

A will written on behalf of the testator shall be witnessed by two or more witnesses, of whom one writes the will, dates it and signs it along with the other witness or witnesses and with the testator.

A will made in the form of a sound-recording shall be witnessed by two or more witnesses.

A testator may, in an emergency situation, make a nuncupative will, which shall be witnessed by two or more witnesses. When the emergency situation is over and if the testator is able to make a will in writing or in the form of a sound-recording, the nuncupative will he has made shall be invalidated.

第十七条 【遗嘱的形式】公证遗嘱由遗嘱人经公证机关办理。

自书遗嘱由遗嘱人亲笔书写，签名，注明年、月、日。

代书遗嘱应当有两个以上见证人在场见证，由其中一人代书，注明年、月、日，并由代书人、其他见证人和遗嘱人签名。

以录音形式立的遗嘱，应当有两个以上见证人在场见证。

遗嘱人在危急情况下，可以立口头遗嘱。口头遗嘱应当有两个以上见证人在场见证。危急情况解除后，遗嘱人能够用书面或者录音形式立遗嘱的，所立的口头遗嘱无效。

Article 18. None of the following persons shall act as a witness of a will:

(1) persons with no capacity or with limited capacity;

(2) successors and legatees; or

(3) persons whose interests are related to those of the successors and legatees.

第十八条 【遗嘱见证人】下列人员不能作为遗嘱见证人：

(一) 无行为能力人、限制行为能力人；

(二) 继承人、受遗赠人；

(三) 与继承人、受遗赠人有利害关系的人。

Article 19. Reservation of a necessary portion of an estate shall be made in a will for a successor who neither can work nor has a source of income.

第十九条 【特留份规定】遗嘱应当对缺乏劳动能力又没有生活来源的继承人保留必要的遗产份额。

Article 20. A testator may revoke or alter a will he previously made.

Where several wills that have been made conflict with one another in content, the last one shall prevail.

A notarial will may not be revoked or altered by a testator-written will, a will written on behalf of the testator, a will in the form of a sound-recording or a nuncupative will.

第二十条 【遗嘱的撤销、变更】遗嘱人可以撤销、变更自己所立的遗嘱。立有数份遗嘱，内容相抵触的，以最后的遗嘱为准。自书、代书、录音、口头遗嘱，不得撤销、变更公证遗嘱。

Article 21. Where there are obligations attached to testamentary succession or legacy, the successor or legatee shall perform them. Those who fail to perform the obligations without proper reasons may, upon request by a relevant organization or individual, entail nullification of his right to inheritance by a people's court.

第二十一条 【附义务的遗嘱】遗嘱继承或者遗赠附有义务的，继承人或者受遗赠人应当履行义务。没有正当理由不履行义务的，经有关单位或者个人请求，人民法院可以取消他接受遗产的权利。

Article 22. Wills made by persons with no capacity or with limited capacity shall be void.

Wills shall manifest the genuine intention of the testators; those made under duress or as a result of fraud shall be void. Forged wills shall be void.

Where a will has been tampered with, the affected parts of it shall be void.

第二十二条 【遗嘱的无效】无行为能力人或者限制行为能力人所立的遗嘱无效。遗嘱必须表示遗嘱人的真实意思，受胁迫、欺骗所立的遗嘱无效。伪造的遗嘱无效。遗嘱被篡改的，篡改的内容无效。

CHAPTER IV DISPOSITION OF THE ESTATE

第四章 遗产的处理

Article 23. After the opening of succession, a successor who has knowledge of the death of the decedent should promptly notify the other successors and the testamentary executor. If none of the successors know about the death of the decedent, or if there is no way to make the notification even though his death is known, the organization to which the decedent belonged before his death or the residents' committee or villagers' committee at his place of residence shall make the notification.

第二十三条 【继承开始的通知】继承开始后，知道被继承人死亡的继承人应当及时通知其他继承人和遗嘱执行人。继承人中无人知道被继承人死亡或者知道被继承人死亡而

不能通知的，由被继承人生前所在单位或者住所地的居民委员会、村民委员会负责通知。

Article 24. Any one who has in his possession the property of the decedent shall take good care of such property and no one is allowed to misappropriate it or contend for it.

第二十四条 【遗产的保管】存有遗产的人，应当妥善保管遗产，任何人不得侵吞或者争抢。

Article 25. A successor who, after the opening of succession, disclaims inheritance should make known his decision before the disposition of the estate. In the absence of such an indication, he is deemed to have accepted the inheritance.

A legatee should, within two months from the time he learns of the legacy, make known whether he accepts it or disclaims it. In the absence of such an indication within the specified period, he is deemed to have disclaimed the legacy.

第二十五条 【继承和遗赠的接受和放弃】继承开始后，继承人放弃继承的，应当在遗产处理前，作出放弃继承的表示。没有表示的，视为接受继承。

受遗赠人应当在知道受遗赠后两个月内，作出接受或者放弃受遗赠的表示。到期没有表示的，视为放弃受遗赠。

Article 26. If a decedent's estate is partitioned, half of the joint property acquired by the spouses in the course of their matrimonial life shall, unless otherwise agreed upon, be first allotted to the surviving spouse as his or her own property; the remainder shall constitute the decedent's estate.

If the decedent's estate is a component part of the common property of his family, that portion of the property belonging to the other members of the family shall first be separated at the time of the partitioning of the decedent's estate.

第二十六条 【遗产的认定】夫妻在婚姻关系存续期间所得的共同所有的财产，除有约定的以外，如果分割遗产，应当先将共同所有的财产的一半分出为配偶所有，其余的为被继承人的遗产。

遗产在家庭共有财产之中的，遗产分割时，应当先分出他人的财产。

Article 27. Under any of the following circumstances, the part of the estate affected shall be dealt with in accordance with statutory succession:

- (1) where inheritance is disclaimed by a testamentary successor or the legacy is disclaimed by a legatee;
- (2) where a testamentary successor is disinherited;
- (3) where a testamentary successor or legatee predeceases the testator;
- (4) where an invalidated portion of the will involves part of the estate; or

(5) where no disposition is made under the will for part of the estate.

第二十七条 【法定继承的适用范围】有下列情形之一的，遗产中的有关部分按照法定继承办理：

- (一) 遗嘱继承人放弃继承或者受遗赠人放弃受遗赠的；
- (二) 遗嘱继承人丧失继承权的；
- (三) 遗嘱继承人、受遗赠人先于遗嘱人死亡的；
- (四) 遗嘱无效部分所涉及的遗产；
- (五) 遗嘱未处分的遗产。

Article 28. At the time of the partitioning of the estate, reservation shall be made for the share of an unborn child. The share reserved shall, if the baby is stillborn, be dealt with in accordance with statutory succession.

第二十八条 【胎儿预留份】遗产分割时，应当保留胎儿的继承份额。胎儿出生时是死体的，保留的份额按照法定继承办理。

Article 29. The partitioning of a decedent's estate shall be conducted in a way beneficial to the requirements of production and livelihood; it shall not diminish the usefulness of the estate.

If the estate is unsuitable for partitioning, it may be disposed of by such means as price evaluation, appropriate compensation or co-ownership.

第二十九条 【遗产分割的规则和方法】遗产分割应当有利于生产和生活需要，不损害遗产的效用。

不宜分割的遗产，可以采取折价、适当补偿或者共有等方法处理。

Article 30. A surviving spouse who re-marries is entitled to dispose of the property he or she has inherited, subject to no interference by any other person.

第三十条 【再婚时对所继承遗产的处分权】夫妻一方死亡后另一方再婚的，有权处分所继承的财产，任何人不得干涉。

Article 31. A citizen may enter into a legacy-support agreement with a person who, in accordance with the agreement, assumes the duty to support the former in his or her lifetime and attends to his or her interment after death, in return for the right to legacy. A citizen may enter into a legacy-support agreement with an organization under collective ownership which, in accordance with the agreement, assumes the duty to support the former in his or her lifetime and attends to his or her interment after death, in return for the right to legacy.

第三十一条 【遗赠扶养协议】公民可以与扶养人签订遗赠扶养协议。按照协议，扶养人承担该公民生养死葬的义务，享有受遗赠的权利。

公民可以与集体所有制组织签订遗赠扶养协议。按照协议，集体所有制组织承担该公民

生养死葬的义务，享有受遗赠的权利。

Article 32. An estate which is left with neither a successor nor a legatee shall belong to the state or, where the decedent was a member of an organization under collective ownership before his or her death, to such an organization.

第三十二条 【无人继承的遗产】无人继承又无人受遗赠的遗产，归国家所有；死者生前是集体所有制组织成员的，归所在集体所有制组织所有。

Article 33. The successor to an estate shall pay all taxes and debts payable by the decedent according to law, up to the actual value of such estate, unless the successor pays voluntarily in excess of the limit.

The successor who disclaims inheritance assumes no responsibility for the payment of taxes and debts payable by the decedent according to law.

第三十三条 【继承遗产与清偿债务】继承遗产应当清偿被继承人依法应当缴纳的税款和债务，缴纳税款和清偿债务以他的遗产实际价值为限。超过遗产实际价值部分，继承人自愿偿还的不在此限。

继承人放弃继承的，对被继承人依法应当缴纳的税款和债务可以不负偿还责任。

Article 34. The carrying out of a legacy shall not affect the payment of taxes and debts payable by the legator according to law.

第三十四条 【遗赠与债务清偿】执行遗赠不得妨碍清偿遗赠人依法应当缴纳的税款和债务。

CHAPTER V SUPPLEMENTARY PROVISIONS

第五章 附 则

Article 35. The people's congress of a national autonomous area may, in accordance with the principles of this Law and the actual practices of the local nationality or nationalities with regard to property inheritance, enact adaptive or supplementary provisions. Provisions made by autonomous regions shall be reported to the Standing Committee of the National People's Congress for the record. Provisions made by autonomous prefectures or autonomous counties shall become effective after being reported to and approved by the standing committee of the people's congress of the relevant province or autonomous region and shall be reported to the Standing Committee of the National People's Congress for the record.

第三十五条 【民族自治地方的变通或补充规定】民族自治地方的人民代表大会可以根据本法的原则，结合当地民族财产继承的具体情况，制定变通的或者补充的规定。自治区的规定，报全国人民代表大会常务委员会备案。自治州、自治县的规定，报省或者自治区的人民代表大会常务委员会批准后生效，并报全国人民代表大会常务委员会备案。

Article 36. For inheritance by a Chinese citizen of an estate outside the People's Republic of China or of an estate of a foreigner within the People's Republic of China, the law of the place of domicile of the decedent shall apply in the case of movable property; in the case of immovable property, the law of the place where the property is located shall apply.

For inheritance by a foreigner of an estate within the People's Republic of China or of an estate of a Chinese citizen outside the People's Republic of China, the law of the place of domicile of the decedent shall apply in the case of movable property; in the case of immovable property, the law of the place where the property is located shall apply.

Where treaties or agreements exist between the People's Republic of China and foreign countries, matters of inheritance shall be handled in accordance with such treaties or agreements.

第三十六条 【涉外继承】中国公民继承在中华人民共和国境外的遗产或者继承在中华人民共和国境内的外国人的遗产，动产适用被继承人住所地法律，不动产适用不动产所在地法律。

外国人继承在中华人民共和国境内的遗产或者继承在中华人民共和国境外的中国公民的遗产，动产适用被继承人住所地法律，不动产适用不动产所在地法律。

中华人民共和国与外国订有条约、协定的，按照条约、协定办理。

Article 37. This Law shall go into effect as of October 1, 1985.

第三十七条 【生效日期】本法自一九八五年十月一日起施行。

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