

Notice from the Guangzhou Municipal Housing and Urban-Rural Development Bureau, Guangzhou Local Financial Supervision and Administration Bureau and Guangdong Bureau of the China Banking and Insurance Regulatory Commission Regarding Issuance of the Guangzhou Pilot Insurance Scheme for Latent Defects in Simple and Low-Risk Construction Projects

Sui Jian Zhi [2019] No. 1595

To all district governments, Administrative Committee of the Guangzhou Aerotropolis Development District, various property insurance institutions in the province of Guangdong and all other parties concerned:

In order to build and manage an innovative and more effective risk management mechanism, this *Notice Regarding Issuance of the Guangzhou Pilot Insurance Scheme for Latent Defects in Simple and Low-Risk Construction Projects* is hereby issued for your implementation.

Guangzhou Municipal Housing and Urban-Rural Development Bureau
Guangzhou Local Financial Supervision and Administration Bureau
Guangdong Bureau of the China Banking and Insurance Regulatory Commission
August 9, 2019

Guangzhou Pilot Insurance Scheme for Latent Defects in Simple and Low-Risk Construction Projects

To implement work arrangements contained in documents such as the *Opinions of the General Office of the State Council on Promoting the Sustained and Healthy Development of the Construction Industry* (Guo Fa Ban [2017] No. 19), the *Notice from the Ministry of Housing and Urban-Rural Development on Launching a Pilot Scheme to Improve Construction Quality and Safety* (Jian Zhi [2017] No. 169) and the *Notice Regarding Several Measures to Further Improve the Business Climate in Guangzhou* (Sui Fu Ban Han [2019] No. 39), fully leverage the role of the market in resource allocation, this pilot scheme is formulated, in conjunction with the realities of Guangzhou, to build and manage innovative and more effective risk management mechanisms by providing risk management services through insurance institutions.

1. Guiding Principles

To comprehensively implement the spirit of the 19th CPC National Congress, implement requirements regarding the building of a system to promote high-quality economic development laid out in President Xi Jinping's call for Guangdong to lead the nation in four aspects, deepen reforms that delegate power, improve regulation and upgrade services, actively give play to the role of the market in systems to guarantee construction quality and steadily promote the implementation of insurance for construction project quality, as guided by Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era.

2. Work Targets

The construction quality insurance market shall be cultivated to progressively establish a construction quality insurance system in Guangzhou, and implement an effective accountability system for construction quality so as to guard against and mitigate construction quality risks. Great efforts should also be made to guarantee construction quality, safeguard the rights of project owners and promote the transformation and upgrading of the construction management industry.

3. Targets of the Pilot Scheme

This pilot scheme is targeted at simple and low-risk construction projects in Guangzhou. Such projects are defined as new ordinary warehouses and workshops with, within the boundaries of the lot, a total constructed area of less than 2500 square meters, a building height of no more than 24 meters, a single function and simple technical requirements. In addition, such facilities shall not produce, store or use inflammable, volatile, toxic, harmful or dangerous goods.

4. Content of the Pilot Scheme

4.1. Relevant Definitions

4.1.1. Insurance for latent construction quality defects, as referred to in this pilot scheme, refers to insurance that is taken out by the project developer. The insurance company shall, according to the terms of the insurance policy,

bear liability for compensation for damage to the insured buildings caused by latent construction quality defects within the scope and period of coverage.

4.1.2. The insured party, as referred to in this pilot scheme, refers to the project developer. The claimant and beneficiary of the insurance policy shall be the owner of the construction project.

4.2. Coverage

4.2.1. Foundation engineering and main structural engineering. Insurance policies shall cover overall or partial collapse; differential settlement exceeding design specifications; collapse (including falling off) of exterior walls or cantilevered components such as balconies, awnings, cornices or the emergence of cracks, damage or fractures that compromise the safe use thereof; the emergence of cracks, deformations, damage and fractures in main load-bearing structures that compromise structural safety; other circumstances specified in national and municipal laws, regulations, rules and mandatory construction engineering standards.

4.2.2. Thermal insulation and waterproofing. Insurance policies shall cover thermal insulation of the building envelope, roof waterproof, lavatories with waterproof requirements, rooms, doors and windows, and anti-leakage treatment for exterior walls.

4.2.3. Others. Insurance policies shall cover renovations (including full renovation and partial renovation, and other works such as plastering of walls and ceilings); electrical conduits, water supply, sewerage and drainage systems, equipment installation, heating and cooling systems.

4.3. Validity of Coverage

4.3.1. Validity of coverage shall be ten years for items covered in Section 4.2.1, five years for items covered in Section 4.2.2, and two years for items covered in Section 4.2.3.

4.3.2. Validity of coverage commences two years after filing of the completion of the construction project underwritten by the policy. The project developer shall appoint construction contractors to repair quality defects discovered within two years of such completion and filing in accordance with the terms of their contract.

4.4. Exclusions

Exclusions shall be subject to the terms and conditions contained in the insurance company's filings with the China Banking and Insurance Regulatory Commission.

4.5. Pilot Underwriting Institutions

The pilot underwriting institution should meet the following conditions: high

risk management capabilities, sound organizational structures, and good claim settlement services.

4.6. Insurance Contract

Prior to applying for construction permits, the project developer applying for latent defect insurance shall conclude an insurance contract with the insurance company and make full payment of the agreed premium in one instalment.

4.7. Premiums and Rates

The basic premium factor of the latent defect insurance policy shall be the total cost of construction for the part of the project to be insured. Insurance tariffs for such policies shall be in accordance with the tariffs filed by the insurance company with the China Banking and Insurance Regulatory Commission.

4.8. Insurance Claims

The insurance company shall, upon acknowledgement of the claim for compensation or payment of insurance benefits from the insured or the beneficiary, make timely assessment of such claims. Complex cases should be assessed within 20 days, unless otherwise stipulated in the contract. The insurance company shall inform the insured party or beneficiary of the results of such assessment. For claims falling within the scope of liability, the insurance company shall pay compensation within ten days of reaching an agreement with regards to compensation with the insured party or the beneficiary. If insurance validity is agreed on in the insurance contract, the insurance company shall pay compensation in accordance within such terms.

4.9. Risk Management

After the conclusion of an insurance contract, the insurance company may entrust a construction project quality safety risk management agency (hereinafter referred to as a “risk management agency”) as well as qualified engineering and technical professionals to undertake risk management on the terms of insurance liability. All parties involved in the construction project shall provide support to the agency, and facilitate their work in every necessary respect.

Risk management agencies as well as engineering and technical professionals shall perform inspections by complying with the terms of insurance liability, and provide reports after each inspection. The inspection report shall include quality defects that have been discovered, and opinions and suggestions for resolving such problems. After the completion of the project, agencies should provide a final inspection report which details existing quality defects and rectifications thereof, and make a risk assessment as regards the scope and substance of insurance liability. Inspection reports, including the final inspection report, shall be provided to the insurance company and the project developer.

Upon receiving inspection reports and the final inspection report, the project developer shall coordinate all parties involved in the project in rectifying and completing the review of such quality defects.

In the event of dispute between the project developer and the risk management agency as regards the determination of construction quality defects, both parties may agree to engage a qualified third-party construction quality appraisal agency for the purposes of appraisal.

4.10. Subrogation

Legal liabilities that shall be borne by the project design firm, construction contractor, suppliers of equipment and materials, and other responsible parties, as stipulated by laws and regulations or the terms of the contract, shall not be waived due to the purchase of any latent construction quality defect insurance policy by the project developer.

Mutual rights and obligations between the project developer and the insurance company shall be stipulated by signing an agreement.

The insurance company shall be liable for losses caused by quality defects covered by the latent construction quality defect policy. The insurance company shall retain the right of subrogation against the party responsible for such quality defects in accordance with the law. Cooperation from the insured party and relevant responsible parties shall be expected.

4.11. Transfer of Equity

Where the subject matter of insurance is transferred, the transferee shall inherit the rights and obligations of the insured party.

4.12. Underwriting Ledger

The insurance company shall establish a well-maintained ledger containing records and statistics on underwriting, risk management and claims settlements with regards to latent construction quality defect insurance policies.

4.13. Duration of the Pilot Scheme

The pilot scheme will be implemented from August 9, 2019 for a period of two years.

5. Support from all Municipal Authorities

5.1. Strengthen organizational leadership. Relevant government departments at all levels should have an adequate understanding of the importance of an insurance system for latent construction quality defects in guarding against and resolving construction quality risks as well as safeguarding the rights and interests of stakeholders, and provide stronger guidance towards such work. All relevant departments shall attach great importance to such work and coordinate the implementation thereof, and expedite the establishment of an insurance system for latent construction quality defects.

5.2. Enhancing public awareness and policy communication. All relevant departments shall promote and publicize the importance of latent construction quality defect insurance in all aspects and multiple dimensions, provide quality consultation and policy interpretation services, as well as increase investors' endorsement of and participation in latent construction quality defect insurance. Relevant government departments shall, through public awareness events, educate enterprises and the public of their roles of latent construction quality defect insurance in safeguarding their rights and interests, and encourage their participation in this pilot scheme.

5.3. Accumulating experience. Through this latent construction quality defect insurance pilot scheme, all relevant departments should improve risk management systems, underwriting and claims settlement processes, as well as summarize their experiences in order to lay a foundation for future promotion of such initiatives.