

Tentative Observations on the Right to Suspend Performance under the Contract Law of the P.R.C.

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The right to suspend performance in the P.R.C. is as follows:

Article 68

The party which ought to discharge its debts first may suspend the discharge if it has truthful evidence to prove that the other party falls under any of the following situations:

- (1) business operations seriously deteriorating;
- (2) diverting properties and withdrawing capital to evade debts;
- (3) falling into business discredit;
- (4) other situations showing inability or possible inability.

Article 69

Where a party suspends the discharge of its debts in accordance with the provisions of article 68, it shall promptly notify the other party of the suspension. The party shall resume the discharge when the other party provides a guarantee. The party that has suspended the discharge may dissolve the contract if the other party has failed to regain its capability of meeting its liabilities and to provide a guarantee within a reasonable period of time.

In so far as the author tried to analyze about 40 cases or more, it can be said that almost all situations of the right to suspend performance are those of (3)(4). It seems to be interesting that there are very few cases which apply to the situation (1). Furthermore, very interestingly, more than half of cases are not the suspension but the dissolution of contract.