

On the Defects and Perfection of China's Commercial Registration System

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Abstract: Under the new situation of socialism, with the deepening of the economic system reform, China's original commercial registration system exposed some problems, by the specific economic environment and background, China's commercial registration system has a greater limitation. The reform of the commercial registration System has become an important part of the economic system reform, and some coastal cities have begun to register the commercial registration under the guidance of the policy in order to promote the economic development of the commercial registration system. The purpose of this paper is to explore the shortcomings of the existing commercial registration system, and find some effective ways to improve the system in the implementation of the reform.

1. China's Commercial Registration System

In the long-term practice process after the reform and opening up, China's commercial registration system has gradually formed. According to the needs of market economy development, the commercial registration system model with the market entity's industrial and commercial registration system as the core has been formed, and the industrial and commercial administration has become the approved registration. The competent authority that issues the license can only conduct business activities after obtaining the subject qualification after the above procedures.

The types of commercial registration are not consistent in the provisions of national commercial law. The types of commercial registration in China are mainly: establishment registration, change registration, and cancellation registration. The establishment of registration is also known as the opening of business registration.

In addition to the type of commercial registration, the issue of the validity of commercial registration has always been the core issue of the commercial registration system. According to the nature of commercial registration, the commercial registration should be divided into the registration of merchants and the registration of commercial activities, and the acquisition of subject qualifications. Registration by merchants, and the acquisition of business qualifications should rely on the registration of commercial conduct. Merchant registration is first of all effective and then public. The effect of cancellation is to eliminate the qualification of the entity; the registration of business conduct does not necessarily have the effect of creation, business opening The validity of registration is to obtain business qualifications. The effect of revoking a business license is to cancel the business qualification; while the legal person is cancelled, the business qualification is of course eliminated. This shows that the effectiveness of the two is not the same. Therefore, we believe that it is necessary to separate merchant registration and business conduct registration. In China, the two are united, and the merchants are simultaneously qualified for business when they obtain the subject qualification. Simplified administrative procedures are not false but confuse the nature and

effectiveness of both. This also brought reasons for the subsequent reform of the commercial registration system.

The validity of commercial registration can not be ignored, but the shortcomings of the supervision and management of commercial registration outside the issue of effectiveness also affect the development of China's business. In China, the supervision and management of commercial registration refers to the duties of supervision and inspection of the registration authorities before and after the business related matters. The registration authority of China is the administrative department of industry and commerce at all levels. It should perform supervision and management duties on commercial registration mainly including: annual inspection, license management and punishment system. [4]

However, in the long-term practice process, with the rapid development of the economy, the previous supervision and management system can no longer keep up with the pace of commercial development. The lack of supervision, offside and weak supervision are becoming more and more obvious.

The security of the commercial transaction has become the highlight of the reform of the commercial registration system. Therefore, the transformation of the supervision and management model will also become the focus of the reform of the commercial registration system.

2. The Shortcomings in the Commercial Registration System

After the Eighteenth National Congress and the Fourth Plenary Session of the Eighteenth Central Committee, deepening the reform of the economic system made the market play a decisive role in the allocation of resources and became the guiding principle for the follow-up reform process. This two meetings before and after established the establishment of China's economic reform and development. The goal has risen to the height of the rule of law to explain it, and the reform of the commercial registration legislation in China has therefore determined the direction. We must admit that the reform of the commercial registration system has a long way to go: the low level of regulation leads to insufficient binding, the legislative form is scattered; the pre-approval process is complicated and inefficient; the credit registration system is imperfect, and the concept is vague and so on. The problems exist in the current commercial registration system, and these problems have gradually become the main factors hindering the development of China's business. With the continuous deepening of China's economic system reform, the transformation of government functions and a series of major policies to promote the steady development of the market economy. With the introduction of policies and legal systems, the reform of the commercial registration system has also been mentioned more and more frequently. There are a series of factors in the existing commercial registration system that hinder the development of the market. As the country's economic development becomes more and more obvious, this makes reforms urgent.

2.1. The Concept of Related Business is not Clear, and the Form of Legislation is too Scattered

China's rapid transition from the planned economic system to the market economic system makes the world's economic growth so astounding, but the relative lag of the law itself combined with the special economic environmental impact and the lack of China's commercial legislative experience, so far many commercial concepts have not been There is a clear definition that the validity and nature of the "commercial registration" in the commercial legal system still has considerable controversy in the legislative discussions in China. There are many laws and regulations concerning commercial registration. The Company Law and the Partnership Enterprise Law have provisions for them. The rough calculations, the commercial registration legal system and related documents appear in the form of separate laws and related regulations. There are 14 [9], cross-repetition,

conflicts are not surprising. Whether commercial registration is an administrative licensing act or an administrative confirmation act, whether it should adopt effectiveism or confrontationism in commercial registration, this series of questions shows the difficulty of characterizing the commercial registration system, precisely because its nature is erratic. Subsequent series of regulatory issues have also brought difficulties.

2.2. The Substantive Examination Standard is Vague, and the Labor Cost is Highly Efficient but very Low

China has gradually changed from substantive examination to formal examination. For the change of the principle of commercial review in China, there are different opinions from different circles. Scholars hold different views. Some scholars believe that the establishment of formal examination will lead to the weakening of regulatory power and the decline of credibility. The administrative agency can no longer provide sufficient security for commercial transactions. However, we seem to ignore what is the important factor in the choice of principle. As far as the current situation is concerned, the author believes that the clarification of supervision responsibility and division of labor are more important. Only when the division of labor for reviewing supervision responsibility is clarified can an orderly review be established. Procedures, the substantive examination to the formal review is not without merit, the industrial and commercial sector supervision subject qualifications registration matters, the rest of the supervision by other departments, division of labor and cooperation, to carry out all-round professional supervision is also not bad, but to ensure commercial transactions In the case of security, if the registration authority still needs to supervise the business qualification to a certain extent, some commercial entities operating in special industries cannot rely on simple formal examination, otherwise it will be significant in terms of the safety and interests of public groups. The threat, therefore, under the existing regulatory system, for the lack of pre-approval procedures for commercial registration should adopt a more effective review of its supervision. Different substantive examination standards are formulated according to different industries and different subjects. However, in the actual operation process, the subject is overly discretionary, and the lack of legal constraints imposes a great burden on the subject of censorship. At the same time, law enforcement agencies also bear certain problems because of the unclear accountability. Law enforcement risks. Therefore, returning to the actual operational level, the government has made choices between fairness and efficiency, reducing the pre-approval process on a large scale, and only conducting formal review of projects without pre-approval procedures to improve the efficiency of commercial activities, and it is obvious and efficient. Commercial operations are more popular.

3. The Improvement of the Commercial Registration System

3.1. Unifying Commercial Legislation to Solve the Problem of Excessively Fragmented and Contradictory Forms of Legislation

As mentioned above, China's legislative form is too fragmented, and many commercial concepts are ambiguous. In this regard, the concepts in commercial law should be uniformly and clearly defined so that the commercial legislation of our country can be unified in form and content. . Secondly, it is also very important to characterize the commercial registration behavior. It will determine how the review and supervision work of the commercial entity should be carried out in the future. However, according to the current market environment in China, in order to improve efficiency, the commercial registration will be directly recognized as an administrative confirmation. Unknown risks – Driven by the economic environment and the interests, the principle of good faith can be

challenged as never before. Therefore, for the characterization of commercial registration behavior, it is more appropriate to classify it as an administrative licensing behavior for the current Chinese economic system. In addition, the concept of commercial subject and its connotation and extension of the academic circle has been "entangled" for a long time since the formulation of commercial law. At this time, it is necessary to clarify that it is directly related to the vital interests of the operators. Therefore, in China's economically developed coastal areas, some cities have begun to try, such as the provisions of the "Zhuhai Special Economic Zone Commercial Registration Regulations": "The business entities referred to in these Regulations refer to natural persons who have been registered according to law and engaged in commercial transactions for the purpose of making profits. , corporate legal person and other economic organizations, including individual industrial and commercial households, individual proprietorship enterprises, partnerships and branches of enterprises, etc." This provision clarifies the individual industrial and commercial households The business subject of the purpose of profit is the commercial subject, and the commercial subject is not differentiated according to the ownership system. It is a further deepening of the economic system reform: the type of business license changes, except for some licenses that have not changed, the 15 licenses have been reduced to 4 [9], improve efficiency, reduce costs, meet the needs of market development: separate the residence and business premises for independent registration: confirmed the record Registered content and innovated a series of oversight mechanisms. This is a useful attempt to improve and deepen the commercial registration system in the context of the reform of the market economic system. This provides a model and reference for the reform work, but for the smaller individual industrial and commercial households, the meaning is not large, the registration cost is high, and the expected profit is low, which makes it fall into a very embarrassing situation. Therefore, it is possible to further refine the existing commercial registration legislation and deepen the extension of the commercial subject. It is more circumferential.

3.2. Improve the Supervision Mechanism, Promote the Construction of Information Platform, and Build a More Reasonable Supervision System

China has not fully entered the era of complete freedom of commercial registration. The supervision of commercial entities is still indispensable. First of all, the publicity of commercial registration should be clarified, both paper and electronic, to facilitate the supervision of the opposite party to the business entity. Secondly, replacing the previous annual report system with the annual inspection system is more appropriate for the supervision of business qualifications. The annual report filing system is conducive to reducing supervision obstacles, improving the rate of submission of annual reports, reducing filing costs, and increasing the enthusiasm of business entities. After the commercial registration reform of Shenzhen, the contents of the annual report have been comprehensively adjusted and regulated. The reform direction of the annual report system can be referred to: registration matters, filing matters, registered capital payment, annual balance sheet and profit and loss statement. In other cases, the commercial subject will upload the annual report to the commercial subject information platform. Those who fail to upload according to the regulations on time shall be publicized and listed in the business exception list after publication. The directors, supervisors and senior management personnel of the relevant enterprises will also be loaded together. The increase of illegal costs will make the business operators improve the vigilance of production. Do not touch the "red line" of violations, and through such a mechanism to screen out substandard enterprises to eliminate, improve the exit mechanism of commercial entities, and achieve the combination of external supervision and corporate self-discipline. At the same time, the company that is on the roster is not adopting a "one-stop-and-death" strategy. The ultimate goal of the roster design is to improve the efficiency of

commercial registration and the security of commercial transactions. Therefore, the enterprises on the roster are still subject to three years. The same protection, but will not be protected in three years, this is also to increase the initiative of companies to submit annual reports. In addition, the entity that passes the commercial registration needs to disclose relevant information on a regular basis, and those who fail to disclose or disclose the violation in violation of the regulations will be registered by the competent commercial enterprise. The relevant departments impose administrative penalties on them. For the commercial subject who conducts false registration, the punishment method in the Zhuhai Commercial Registration Regulations is very worthy of reference. "Revocation of its commercial registration" rather than "revoked business license" is also the registration of the above-mentioned explicit subject qualifications. The implementation of the main body qualification and business qualifications were carried out and implemented. False registration touches on the acquisition of commercial subject qualifications rather than undermining the business order, so it is safer to revoke its commercial registration.

4. Conclusion

As time goes by, the level of reform and opening up has entered a new stage. The rapid development of the economy has made the security of commercial transactions more concerned. At the same time, the principle of efficiency first in the information age is also in the principle of commercial legislation. The most important thing is to improve the efficiency of commercial operations and reduce the cost of commercial operations. These are important objectives of commercial legislation. Commercial registration is the first checkpoint for checking the security of commercial transactions. It is also important for the state to obtain first-hand information on the business status of commercial entities. Meanwhile, the reform of the commercial registration system is related to the overall planning of the commercial subject and its legal adjustment. The commercial registration reform in Shenzhen and Zhuhai provides direction and reference for the follow-up reform and development. The author expresses his immature views. In fact, it is hoped to bring together more mature views. The author believes that in the future, China's commercial registration system will move toward a more perfect new future with the development of the economy and the maturity of ideas.

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