



On Barriers and Countermeasures for China Implementing Reverse Home Mortgage Loans

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Abstract

Along with the development of an aging society in China, pressures on social security are unavoidable. At this moment, China begins to execute reverse home mortgage loans, what is meaningful for the construction of harmonious society. This paper points out the barriers for China implementing reverse home mortgage loans and advances relevant countermeasures.

Keywords: Reverse home mortgage loans, Barriers, Countermeasures

China has already entered an aging society. Compared with developed countries, China's aging society develops fast and the population aging development can not keep up with economic development. Lots of "four-two-one" families will appear in China. Present social security system and traditional family endowment can not manage the coming aging crisis well. Since developed countries have already entered an aging society for a long period, they have accumulated rich and practical experiences for endowment. We can learn from developed countries' mature experiences and build up a reverse home mortgage loan system.

A reverse mortgage is a loan available to seniors, and is used to release the home equity in the property as one lump sum or multiple payments. The homeowner's obligation to repay the loan is deferred until the owner dies, the home is sold, or the owner leaves. Homeowners can get the loan by one-off payment or monthly payment during certain period or freely under certain credit quota. No restrictions for the uses of loans. It can be used for daily expenditure, home repairs, or medical cares. By making best use of the difference between human life and house life cycle, reverse home mortgage loans can help seniors to allocate their life-long wealthy reasonably and sustain a normal life. Therefore, this loan is also named as "reverse mortgage" or "endowment by home".

1. The significance of foreign countries' reverse home mortgage loans in reference for China

The reverse home mortgage loan originates from Holland. America has the most matured and representative reverse home mortgage loan. Since America has developed the reverse home mortgage loans in 80s last century, it has already been introduced by Canada, British, France, and Singapore. In America, there are mainly three types of reverse mortgage loans according to the different agencies that approved the loan. The first type is the reverse mortgage loan insured by the federal government. This loan is approved by American Federal Housing Administration. The second type is the reverse mortgage loan insured by the government. This loan is approved by American Federal National Mortgage Association. The third type is the special reverse mortgage loan. This loan is offered by different companies and is different due to the diversity of customers. It is a kind of personal financial product.

The aging population will inevitably bring about unexpected difficulties for China's economic and social development, especially for the imperfect social endowment insurance system. Therefore, to take references from foreign countries' experiences in reverse mortgage loans and develop the reverse home mortgage loans properly in China are significant to relieve China's pressures on endowment insurance. Meanwhile, it will trigger the rise of the real estate market for seniors, stimulating the growth of national economy, benefiting the innovation of financial insurance products, realizing the integration of endowment resources and real estate resources, improving seniors' life quality, and relieving children's burdens. In one word, the promotion of reverse mortgage loan will exert profound influences on China's social development.

2. The barriers for China implementing reverse mortgage loans and the countermeasures

2.1 *The restraints of traditional ideas*

On one hand, the reverse mortgage loan is anti-traditional. On the other hand, children oppose to it. Affected by traditional ideas, children think that they possess potential controls over seniors' properties as long as they fulfill their obligations in endowment. We should change the traditional ideas gradually and encourage seniors to realize self-independence and children to start new ventures.

2.2 *The imperfect policies and regulations*

In China, policies and regulations about the reverse mortgage loans are imperfect. In western countries, policies and regulations concerning real estates and endowment security are mutually supportive. For example, in America the regulations about land management and financial taxes offer preferential terms for the reverse mortgage loan. Seniors who apply reverse mortgage loans can enjoy preferential taxes and pay no property taxes.

The solution is to constitute policy and law insurance. On one hand, it is necessary to adjust relevant laws. On the other hand, improve the attractiveness of reverse home mortgage loans by imposing legacy taxes. In fact, most of borrowers are seniors who have lower incomes. The state should offer sorts of policy supports for the reverse mortgage loans, such as reducing or exempting taxes, financial discounts, and tax exemption of fees.

2.3 *The conflicts with present laws*

The reverse home mortgage loan is a kind of endowment method that directly takes the ownerships of houses as mortgages. In essence, it is a kind of transfer guarantee. The so-called transfer guarantee is a system that the debtor takes the ownership of properties as the mortgage guarantee the debts and the creditor can get the ownership of the mortgage as the debtor fails to pay debts off. However, in China and many other countries, the transfer guarantee is not accepted or confirmed completely. Somebody thinks that the transfer guarantee is analogous to fluidity contract and is a kind of evasion of law. Somebody else thinks that the transfer guarantee, as a kind of security interest, is invalid because it goes against the principle of real right legality. On one hand, the Guaranty Law of PRC forbids the fluidity contract definitely in order to avoid creditors pricing guaranties at will since debtors are in a disadvantage situation and in capable of negotiation. In a financial emergence, debtors could not make wise judgments. In order to get rid of present difficulties, debtors may accept creditors' rigorous conditions and get into another bad situation. On the other hand, transfer guarantee emphasizes on the real right. It creates a new type of the real right in fact. If we acknowledge its validity, it will go against the principle of real right legality. Because the transfer guarantee is illegal, the reverse home mortgage loans will be illegal either.

To manage the conflicts between transfer guarantee and present laws is also an important issue for promoting the reverse mortgage loans. The transfer guarantee means to value the guaranties before the transfer of ownerships. After paying off all debts, the surplus values of guaranties should return to debtors. By this way, both parties' interests are insured, what is in accordance with the purpose of guaranty law. Along with the continuous social development, the types and contents of real rights regulated by Chinese laws initially could not satisfy the practical needs of society. The transfer guarantee is a product of economic and social development. Its registration, notification, and the liquidating procedures can protect the interests of owners. Therefore, in essence the transfer guarantee is lawful. In China, the mortgage loans based on transfer guarantee have already widely recognized in practice. And its development becomes more mature. The solution is to further perfect China's guaranty law and amend it with new terms related with transfer guarantee.

3. Several suggestions for developing the reverse home mortgage loans

Firstly, set up special operational agencies. Insurance companies, especially life insurance companies, as operational agencies for reverse home mortgage loans, can start the business of charges and compensations for endowment insurances. Commercial banks can also develop the reverse mortgage loans. The cooperation between commercial banks and insurance companies can drive the stable and healthy development of the reverse mortgage loan, as a new financial product. Social security institutions can also serve as active cooperators. To build up a powerful social security system can increase new financing channels for endowment. In addition, the promotion of reverse home mortgage loans needs the participation of legal medium agencies, such as accounting firms, and law offices.

Secondly, implement a loan management method in favor of civilians. Borrowers should be at an age of 60 above and possess private houses and join in relevant insurances. The quantity of loans is determined by the age of the borrower, the position of the house, and the changes of rates. Loans can be issued periodically, at one-time, or by credit. As for the payment of loans, the borrower can mortgage the house, or the borrower or his or her inheritor pays off loans in cash, or the borrower sells the house to pay off loans.

Thirdly, suggest China constitute the Law of Supervising the Reverse Home Mortgage Loans. The government should enhance its supervision over market subjects, restrain the activities of loan-supply agencies, and regulate principles for

offering reverse mortgage loans. For example, commercial banks should release the information concerning the operation of reverse mortgage loans exactly, and carefully check the ownership of houses as mortgages. It is the responsibility of government to approve and supervise the certificates of medium agencies and ensure their services. Strengthen the execution of regulations and implement effective supervision and control over operations.

Finally, set up an exit mechanism for loan-supply agencies. As an important component of financial market, the reverse home mortgage loans should have a relevant mechanism for market entrance and exit. The exit of loan-supply agencies is either positive or negative. The negative exit means loan-supply agencies retreat from the reverse mortgage market due to the punishment of administrative orders or bankruptcy. In the legislation of reverse mortgage loans, by taking references from foreign countries' laws and regulations concerning the exit of financial agencies, and considering China's situations, we should make definite regulations on the standards, procedures, principles, and results of exit of loan-supply agencies in law.

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