

# The Road to Building Land Bank Legal System in China

Peng Zikuang

Wuhan University of Technology  
Wuhan, Hubei, China

**Abstract**—The economic development of rural areas in China is constrained by the serious shortage of rural financial funds. Given the fact that the pace of agricultural modernization is slow, and the gap between urban and rural areas is gradually widening, we should give priority to establishing an effective financing system in rural areas and introducing financial funds into rural areas. Developed countries have accumulated a lot of experience in the agricultural development in the past 100 years, so China can learn from the establishment of land banks in the United States, Germany and other countries to issue land loans and issue land bonds while developing independently. We can construct a farmland financing system in China to solve the shortage of rural funds.

**Keywords**—Land Bank; Farmland Finance; Land Mortgage

## I. INTRODUCTION

Agriculture is the foundation of China's national economic development. Existing rural financial institutions focus on deposits for profit, and do not intend to engage in high-risk, low-yield agriculture-related loans. The lack of rural funds has seriously impeded the development of rural economy. As far as China's current situation is concerned, the problem of farmers' financing difficulties has not been properly solved. The current rural financial system is difficult to achieve the original intention of helping farmers develop and live. The first is that the number of rural financial institutions at the grassroots level is small, and it is not able to provide sufficient services for the farmers' growing capital needs. Secondly, the loan requirements are high, and the small loan amount does not meet the actual needs of farmers' production and life. The development of agriculture and the improvement of farmers' living standards require sufficient financial support, but the current situation of rural financial development cannot meet actual needs.

The standardization and legalization of farmland circulation can promote China's agricultural development and peasant prosperity. The institutions responsible for the transfer of agricultural land should be scientifically managed and operate reasonably, so that the farmland circulation market is mature and perfect. The establishment and development of the Land Bank has enabled the standardization of land transfer and the effective use of rural land resources. The construction of land banks with land management rights mortgage loans and land bond issuance as the main business is of great significance for

breaking the suppression of agricultural land and rural financial supply and forcing funds to flow to rural areas[1].

## II. THE EXPERIENCE OF THE LAND BANK IN DEVELOPED COUNTRIES

### A. Organizational structure at different levels

The United States has 12 agricultural credit zones. There are the Agricultural Finance Authority on the Federal Land Banks in each district, and the Agricultural Credit Committee. There are agricultural loan cooperatives and federal agriculture that are voluntarily formed by farmers in various districts under the Federal Land Bank. Arrive

The company and the Fuxing Financial Corporation, in terms of the nature of the credit cooperatives, are not only affiliated with them, but also one of the shareholders. Based on the analysis of the land bank, it can be found that it exhibits strong capital financing and resource integration, attracts social capital inflows, supports the subsequent development of agriculture, and creates conditions for the farmers' external development; Seen, it has formed a certain organizational system. First, farmers in various regions have established credit cooperatives based on voluntary principles, thus facilitating the handling of farmland mortgage business. Then, based on the letter and cooperation cooperatives, a joint cooperative bank has been established. Strong locality[2]. At the same time, land banks were created based on joint regional banks, which are national. As far as the performance of the German side in credit cooperatives is concerned, there are similarities with the United States, such as providing related services related to farmland mortgages. Both state-controlled institutions and commercial joint-stock companies are registered and have independent legal entities and a sound internal management mechanism. For example, the United States Federal Land Bank implements a shareholding system, and there is also a board of directors. In terms of its responsibilities, it is mainly to control and lead, to ensure that cooperatives can maintain normal operations and achieve good management. Board members are usually based on elections. For three years. In order to ensure that the daily affairs of the cooperative can be effectively dealt with, there are also full-time managers, mainly dealing with daily business, and their appointments are decided by the board of directors, usually professionals.

### *B. Source of funds for the land bank*

Land banks in developed countries have multiple sources of funds, which are only convenient for farmers' own development choices, and create conditions for non-agricultural capital to intervene in agricultural production. For example, in Germany, the source of funds for rural land banks is mainly the nature of bond financing. In the process of joining cooperatives, farmers adopt the form of land mortgage on the principle of voluntariness, while cooperatives are based on farmland land as security. The issuance of bonds will enable the agricultural land to be capitalized, generate income for farmers, revitalize the land economy, and facilitate circulation and disposal. Under the German Land Mortgage Credit Cooperative, there is a joint cooperative bank, which aims to provide loans to rural development by issuing bonds and guaranteeing debt service, eliminating the concern of social capital flowing into the countryside[3]. The US Land Bank issues bonds to farmers' mortgage land, shares, and provident funds as collateral. In addition, according to the Federal Agricultural Credit Law, when the lender's application is successful, when the loan is obtained, it is required to pay 5%. Funding to buy shares in the association. Similarly, as an association of land banks, it is also necessary to purchase bank shares based on the same amount, so the share capital is another source of funds for the land bank.

### *C. Land bank business scope*

The German Land Bank provides loans to farmers for a period of 10 to 60 years. The lender (ie the member) applies the loan as a collateral to the cooperative, submits a written application for the amount of the loan, the period of use, the purpose of use, etc., and submits the land title certificate. The cooperative evaluates the value, area and location of the land. After that, the loan amount is calculated, and then the loan contract is signed with the member[4]. In addition to handling basic services such as providing loans to farmers, the German Land Bank also undertakes the task of public utility construction. Its daily operations include: funding to support rural areas to build water conservancy, reclamation of wasteland, planting trees, arable land, building roads, and improving rural life. Environment; support the production and development of agriculture, forestry, animal husbandry and fishery; sales and storage of agricultural products and food; support the recycling of agricultural renewable energy; support international cooperation in agricultural machinery and equipment manufacturing, infrastructure improvement. In addition, the German Land Bank also launched a series of agricultural investment businesses, creating funds to encourage agricultural technology innovation and the promotion of advanced agricultural technology, this part of the funds mainly rely on government support and social donations. The core business of the US Land Bank is to issue loans. The Federal Land Bank's loans are mainly for farms and farmers in the business district, as well as for agricultural services. The loan scope also includes farmers' housing loans. The term can be from 5 to 40 years, with real estate as collateral, the amount can be up to 85 percent of the collateral valuation, and the use is not restricted. Members can apply to the Land Bank for a mortgage that is no more than 65% of the assessed value of the mortgaged land. The procedure is roughly as follows: First, the

member submits a loan request to the land cooperative. The request must state the amount of the loan, the purpose, the time limit, and submit the land ownership certificate. After submitting the cooperative, the board of directors will review the loan request and pass the Submitted to the land bank in the agricultural credit zone, the district land bank will provide loans to the members after the approval[5]. The members will need to deposit 5 percent of the loan amount as shares in the cooperative when the loan is withdrawn, and the land cooperative will pay the members again. Stocks to buy shares in the Federal Land Bank.

## III. CONCEPTION OF THE STRUCTURE AND OPERATION SYSTEM OF CHINA'S LAND BANK

### *A. The government lead the establishment of the land bank*

The legal nature of the land bank determines that the main body of the establishment of the land bank is the government, which is funded by the government. China's Land Bank should adopt a top-down setting method to set up China's Land Bank in the central government to coordinate the management of land banks and cooperatives at all levels in the country, and set up land banks from below to manage land transfer and agriculture in the region. In the local financial work, land credit cooperatives are set up at the village and town level, responsible for deposits and loans at the grassroots level and farmland mortgage work. There is a problem of asymmetric information between the two sides, which increases the cost of work for the deposit and loan of the agricultural land and the mortgage business. The organization of the land cooperative credit cooperative at the township level is based on the experience of the German and American countries. Farmers at the grassroots level unite, integrate information, carry out farmland deposits and loans and mortgage business, and act as a link platform for farmers and rural land banks to apply for loans and exercise rights on behalf of farmers.

### *B. Business multi-level expansion*

The China's Land Bank should be responsible for depositing and lending agricultural land, and developing land bonds, land evaluation, land consolidation, and land policy publicity and consultation. Land deposit and loan business refers to the fact that farmers deposit their own management rights into the land bank in accordance with the principle of "voluntary, paid, and legal", sign land deposit contracts with the land bank, determine the time, interest, and collection methods of the deposit, and Pay interest according to the location, advantages and disadvantages, prospects, etc. of the deposited land. The Land Bank collects information from the land deposited by the farmers, integrates the data, and the demanders such as large planters and agricultural companies sign contracts with the land bank to determine the time limit, payment of fees, and land use restrictions. The development of this business has stimulated the enthusiasm of rural construction. On the one hand, the scattered small plots deposited by farmers have been professionally evaluated and integrated, and are handed over to enterprises or farmers with large-scale production needs, which not only promotes the modernization of agricultural production, but also enables

farmers who continue to engage in agricultural production to receive state support; On the one hand, farmers who wish to go to urban development can take this opportunity to free themselves from land farming, and the regular income brought by land deposits also solves the worries of the process. The farmland mortgage business can provide sufficient financial support for farmers' life and agricultural production. The particularity of the object explains the legal attributes of the land bank. This business causes the farmers to have insufficient funds in the production and operation activities and sign the mortgage with the land bank. The contract for the loan is funded for continued operation. Farmers can use their land use rights as collateral in exchange for funds to meet their own needs for entrepreneurial or large-scale agricultural machinery. Land is the largest and most stable property owned by farmers. Developing land mortgage loans is an effective way to solve the problem of lack of funds for agricultural development and difficulties for farmers to raise funds. The land bond business is an important source of income for the land bank, supporting the continued operation of the land bank and the development of other services. The Land Bank issues securities, which are guaranteed by the mortgage of the farmer's land. In the initial stage of the establishment of the China's Land Bank, the government needs to invest funds to ensure the normal operation of the land bank. However, after the development of the land bank for a period of time, a large part of the funds will come from the issuance of land bonds. At the same time, the land bank can also carry out land consolidation business, integrate the land deposited by farmers, and promote the completion of land transactions. Conduct publicity and consultation work on national land policies to make farmers more aware of the country's policy direction. In summary, the land banking business is diverse and can provide a full range of services for agricultural development and rural construction. First of all, the deposit and lending of agricultural land can not only free farmers from farming, but also provide possibilities for large-scale mechanized production. Secondly, accepting mortgage loans for agricultural land has lowered the barriers for farmers' loans and effectively solved the problem of farmers' loans. Finally, the multi-level and all-round development of various businesses is an important backing for realizing agricultural modernization and supporting rural construction. .

#### *C. Improve the interest distribution mechanism*

Being able to gain benefits is the motivation for people to produce and live, thus gradually achieving social progress. Uneven distribution of benefits will dampen the initiative of people to continue to participate in construction. Correctly addressing the relationship between the acquisition of personal interests and the acquisition of collective interests is crucial. The difference between the acquisition of personal interests and the acquisition of collective interests cannot be too great, otherwise it is not conducive to people continuing to participate in production activities. For the distribution of interests of the land bank, it is necessary to correctly handle the problem of the profitability of all parties after the growth of land value. For the peasants, the benefits of depositing the land into the land bank will only continue to save the farmer's income. For enterprises or large-scale producers, the benefits should be higher than

before the scale of the land expands. Otherwise, it is not attractive; the continued operation of the land bank also requires continuous investment of funds; although the country implements its relevant policies through the land bank to support rural construction, it also hopes that it can be economically independent and does not always rely on state support. Only by planning a physical income distribution system can each entity be actively invested and maintain the operation of the land bank.

#### IV. THE LEGAL SYSTEM GUARANTEE OF THE LAND BANK

##### *A. The nature of China's land bank should be defined as a policy financial institution.*

The so-called policy financial institutions refer to those that are constructed by the state or public authorities. They are not for profit. They only carry out activities in some areas and provide financial support for related businesses and industry development. The original intention is to implement relevant national decisions. The original intention of the establishment of the China Land Bank was to solve the financing difficulties of farmers, provide funds for agricultural development, and implement the national land policy. The business involved in the land bank and the service target are high-risk and vital agricultural land finance. All of them are subject to market regulation and are prone to market failure. Therefore, the government needs to control it. China's land banks aim to promote the transfer of agricultural land and serve agriculture rather than maximize their benefits. They must emphasize policy and be managed and coordinated by the government.

##### *B. Improvement of land property rights system*

Government departments should further improve relevant laws and regulations, fully guarantee the legitimate rights and interests of both sides of agricultural land transfer, and make the agricultural land transfer work on the track of marketization, standardization and legalization as soon as possible. The provisions of laws and regulations are the biggest obstacle to the transfer and mortgage of agricultural land, which is not conducive to the full effectiveness of the land. Because the provisions stipulate that mortgages are forbidden, and rural construction and agricultural development require a large amount of funds, the existing financing channels are difficult to ensure the abundance and stability of funds, and the production and life of farmers are hindered. Moreover, the establishment and operation of land banks should be based on the basis of the law, it can be carried out according to law, otherwise it is not conducive to the development of related work and the handling of business. It should also be noted that farmers entering the city trade unions are affected by agricultural land and their funding needs are difficult to maintain. Although China has announced decisions and opinions to promote the transfer of agricultural land and mortgages, the law has higher effectiveness and stability, and the improvement of relevant legislation will help the land bank to build and operate more smoothly. Clear property rights are the basic prerequisite for the transfer of agricultural land. Only when all the rights are clear and clear can the mortgage deposit and loan business be successfully carried out. The development of rural land banks

must be based on clear conditions of land ownership. However, the current rural land rights registration system has not been perfected. Due to the lack of authoritative confirmation of the scope of contracted land, many unnecessary disputes have arisen.

At present, there is no unified property registration authority in China, which results in unclear ownership of rights, and the validity of the certification documents issued by the quality inspections of various agencies and departments affects the certainty of the instrument. The registered object of the land and resources department is the ownership of the farmland, and the object of the agricultural sector is the contractual management right. Perfecting the land property rights system can not only make farmers' rights to farmland clear and clear, reduce related disputes, but also provide strong evidence for the protection of farmland interests and reduce the possibility of illegal encroachment. It cannot be ignored. Perfecting the land property right system will smoothly carry out the road of agricultural land transfer, and the full play of the value of agricultural land plays an important role. Based on this, we need to improve the land registration system. First of all, the registration of land property rights should be based on the current ownership of rights, to ensure the openness and fairness of the activities of confirmation. Secondly, land is an important resource after all. When property rights are registered, there will be conflicts. In order to solve this problem, it is necessary to improve the dispute resolution mechanism, resolve the conflict as soon as possible, and solve the problem on the spot. The work of the squad leader goes smoothly. Third, to protect the public's right to participate and know, to ensure the transparency of the work, to disclose relevant information in a proper manner.

#### V. CONCLUSION

With the rapid development of the social economy and the intensity of social reforms, China's traditional rural land model and the shortage of rural financial funds have seriously hindered the development of rural areas, and the urban-rural gap has gradually increased. While drawing on the admiration of the land banks of developed countries, China should pay attention to local characteristics. On the one hand, it should build a land setting mechanism that combines banks and cooperatives, and issue land bonds as the main source of funds and land with farmland mortgage loans as its main business. On the other hand, banks have introduced relevant laws on land banks and improved land property legal systems to provide legal guarantees for agricultural land finance.

#### REFERENCES

- [1] Oligopsonistic Landlords, Segmented Labour Markets and the Persistence of Tier-labour Contracts. Basu A.K. American Agricultural Economics Association. 2002.
- [2] Carter M R , Yao Y . Specialization without regret - transfer rights, agricultural productivity, and investment in an industrializing economy[J]. Social Science Electronic Publishing, 1999.
- [3] Binswanger H P, Deininger K, Feder G. Chapter 42 Power, distortions, revolt and reform in agricultural land relations[J]. Handbook of Development Economics, 1993, 3(95):2659-2772.
- [4] Laeven L, Woodruff C . The Quality of the Legal System, Firm Ownership, and Firm Size[J]. Review of Economics and Statistics, 2007, 89(4):601-614.
- [5] Ernest Aryeetey ,Christopher Udry. Creating Property Rights: Land Banks in Ghana. American Economic Review. 2011.