

Reflections on Criminal Law Regulation of the Chaos in "Housing-for-Pension" Fraud

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Abstract

In recent years, the "housing-for-pension" model has gained more and more public attention as a novel type of commercial endowment insurance. Criminal actors, however, have taken advantage of this mechanism to create fraudulent schemes, leaving elderly participants penniless after losing their property and assets. With a high percentage of crimes going unreported and a pressing need for institutionalized criminal prosecution, the administration of "housing-for-pension" fraud currently faces significant obstacles. An integrated application of criminal law ought to be used to regulate such circumstances. The fund-raising operations associated with "housing-for-pension" scams should be classified as crimes pertaining to illegal fundraising since they satisfy the four requirements of illegal fundraising under Chinese criminal law. Furthermore, such crimes should be classified as fundraising fraud as the offenders' actions and intent meet the fraudulent portion of the offense.

Keywords

housing-for-pension; illegal fundraising crimes; crime of fundraising fraud

1 Identification of the Characteristics of "Housing-for-Pension" Fraud Cases

The "housing-for-pension" scheme, formally known as the Reverse Mortgage Pension Insurance for the Elderly, has gradually attracted broad public attention as an emerging model of elderly care. According to the Guiding Opinions on the Pilot Program of Reverse Mortgage Pension Insurance for the Elderly (China Insurance Regulatory Commission, Document No. [2014] 53), reverse mortgage pension insurance is an innovative form of commercial endowment insurance that combines housing mortgage with lifetime annuity insurance. Specifically, elderly homeowners who possess full ownership of their property may mortgage their homes to an insurance company while retaining the rights of possession, use, and income, as well as the right of disposal with the mortgagee's consent. In return, they receive a pension in accordance with the agreed conditions until death. Upon the death of the insured, the insurance company obtains the right to dispose of the mortgaged property, and the proceeds are first used to settle the costs related to the pension insurance. The original purpose of the "housing-for-pension" model was to provide senior citizens with a financial channel to support retirement by leveraging their property assets. However, as the model has become more widespread, criminal actors have exploited its mechanism to design sophisticated fraudulent schemes, causing numerous elderly victims to lose both their money and their homes.



The characteristics of "housing-for-pension" fraud cases can be summarized in three aspects. First, the novelty of the fraudulent methods. In practice, perpetrators frequently invoke the name of national policy and lure elderly individuals into signing housing mortgage loan contracts through false promises such as "mortgaging your property will generate capital gains," "the mortgage will not affect your right of residence," or "a designated professional will ensure the safety of your house." By promising high rates of return as bait, they induce the elderly to sign mortgage loan agreements with financial institutions such as banks, trust companies, or microloan companies. After mortgaging their houses, the elderly are instructed to use the proceeds to purchase so-called high-yield wealth management products or investment projects, while the borrowed funds are directly appropriated by the fraudulent company. Although the company assumes the responsibility of repaying the principal and interest, the elderly—being the contracting party to the mortgage loan agreement—still bear the corresponding legal risks. Once the company's capital chain breaks and interest payments cease, the elderly will face contractual default liabilities for failing to repay the loan, which may ultimately lead to the repossession of their homes. In more egregious situations, the company colludes with the lending institution and seizes the elderly victims' property directly through litigation or arbitration. Second, the large number of persons involved and the enormous amount of money at stake. For example, in *The Criminal Case of Shen Yiping on Fundraising Fraud*—one of the six typical cases of elderly-targeted fraud crimes published by the Supreme People's Court (Case No. (2019) Hu 02 Xing Chu 88)—the defendant Shen Yiping illegally raised more than RMB 298 million from 238 investors. Most of these funds were used to repay principal and interest to previous investors, settle other financing debts, and cover operational expenditures, leaving 139 victims with a total unrecoverable principal exceeding RMB 168 million. Third, the elderly victims are left unable to sustain their livelihood. Participants in "housing-for-pension" projects are mostly elderly homeowners with substantial real estate assets but limited cash liquidity. Many reside in high-priced cities such as Beijing, where their properties constitute not only a vital foundation for daily living but also their principal form of wealth. Their initial intention in joining such projects was to remain in familiar living environments while obtaining stable income from their property to secure their later years. However, once default occurs, most elderly participants, lacking repayment capacity, face compulsory enforcement measures leading to the loss of their homes. This not only severely affects their living conditions but also inflicts devastating psychological harm, pushing already vulnerable elderly individuals into even deeper distress and depriving them of the very means of survival. The wide-ranging impact, severe consequences, and irreparable damage caused by "housing-for-pension" fraud make it a representative and critical category in the criminal governance of elderly-targeted fraud in China.

2. Analysis of the Current Governance Status of "Housing-for-Pension" Fraud

2.1 *The Severe Situation of "Housing-for-Pension" Fraud Governance*

On July 24, 2025, the Ministry of Civil Affairs and the National Working Commission on Aging jointly released the 2024 National Bulletin on the Development of the Aging Undertaking, showing that as of the end of 2024, the population aged 60 and above in China had reached 310.31 million, accounting for 22.0%

of the total population, among which 220.23 million were aged 65 and above, accounting for 15.6%. China has thus entered a stage of moderate population aging. According to projections by the National Health Commission, by around 2035, the number of people aged 60 and above will exceed 400 million, representing more than 30% of the total population, marking the transition into a stage of severe aging. Against the backdrop of an "aging before affluence" and "aging before preparedness" society, the accelerating trend of population aging has brought elderly care issues to the forefront, while also generating a growing demand for elderly care services and creating enormous opportunities for the elderly care industry. Among the emerging models, the housing-for-pension scheme has gradually risen to prominence. As a legitimate financial mechanism, its core lies in combining housing mortgage with lifetime annuity insurance, thereby providing elderly homeowners with full property rights a new channel to secure retirement funds. However, criminal actors have exploited the elderly's anxiety about retirement and their limited awareness of financial risk, distorting this model into a new form of elderly-targeted fraud, causing severe material and psychological harm to elderly victims and their families. In practice, housing-for-pension fraud often disguises itself with a veneer of legality; the entire process appears complete and procedurally compliant, and each step seems consistent with legal requirements, yet in reality, it conceals numerous traps and exhibits a high degree of concealment. Furthermore, in judicial practice, there remains an evident lack of sensitivity in recognizing and prosecuting related offenses, along with confusion in the classification and determination of applicable crimes. Therefore, there is an urgent need to strengthen criminal law regulation to address and rectify this disorder.

2.2 The Serious Issue of Unrecorded "Housing-for-Pension" Fraud Crimes

As of September 1, 2025, a search conducted by the author on the China Judgments Online database using the keyword "housing-for-pension" yielded a total of 1,216 legal documents. Classified by case type, only 27 of these documents pertain to criminal cases, accounting for approximately 2.22% of the total, while as many as 1,062 documents fall under civil case categories. By region and jurisdiction, Beijing recorded 547 cases, representing 44.98% of the total number of documents. Other regions such as Shanghai, Shandong, Henan, Jiangsu, and Zhejiang also show a certain number of related cases. These data indicate that legal disputes involving housing-for-pension schemes are concentrated mainly in economically developed regions, where housing prices are relatively high and the elderly population is substantial. It is noteworthy that among the 27 criminal cases, 23 originated in Beijing. Based on this data, it is evident that Beijing occupies a central position in housing-for-pension fraud cases and plays a critical role in their detection and prosecution. The legal governance and criminal enforcement practices in this region are thus of great significance for the overall regulation of housing-for-pension schemes nationwide. Furthermore, the 2.22% proportion of criminal cases only reveals a small fraction of the actual criminal activities underlying housing-for-pension fraud. This suggests that a significant number of offenses remain undiscovered, unreported, and unpunished. Much like the visible tip of an iceberg that conceals a much larger mass beneath the surface, housing-for-pension crimes exhibit a similar pattern of concealment. Therefore, it is crucial to recognize that these hidden offenses—constituting the severe problem of crime dark figures—demand equal attention and stringent law enforcement efforts.



2.3 Institutionalizing the Punishment of "Housing-for-Pension" Fraud

In order to lawfully and severely punish fraudulent activities targeting the elderly and to extend governance to the broader problem of fraud-related violations that infringe upon the lawful rights and interests of senior citizens, a nationwide Special Campaign to Crack Down on Elderly-Targeted Fraud was launched in April 2022 under the decision and deployment of the Central Committee of the Communist Party of China. On September 23, 2022, at the National Summary Conference on the Special Campaign to Crack Down on Elderly-Targeted Fraud, it was announced that a total of 41,090 criminal cases of elderly-targeted fraud had been filed, of which 39,294 were solved. A total of 4,735 criminal groups were dismantled, and more than 66,000 criminal suspects were apprehended. Nationwide, 7,594 individuals were formally arrested, and 8,516 were prosecuted. Courts rendered 1,645 first-instance judgments involving 4,523 defendants and 324 second-instance judgments involving 1,175 defendants, with a heavy-sentence rate of 26%. The campaign successfully recovered and returned illicit gains exceeding RMB 30.8 billion. This special enforcement initiative effectively deterred criminal actors engaged in elderly-targeted fraud, significantly curbing such illegal activities. According to a survey conducted by the National Bureau of Statistics, 82% of respondents believed that various forms of misconduct in the elderly care sector had decreased, and the public satisfaction rate with the campaign reached 86%. Although the special campaign concluded successfully, the institutionalization of punishment for elderly-targeted fraud remains ongoing. In particular, housing-for-pension fraud—characterized by its high level of concealment and complexity—should command continued vigilance and emphasis. As stressed during the summary conference, efforts must be made to institutionalize the long-term mechanisms for combating and rectifying elderly-targeted fraud, thereby safeguarding the lawful rights and interests of the elderly and creating a favorable social environment in which they can enjoy a secure and dignified later life.

3 "Housing-for-Pension" Fraud: Criminal-Law Regulatory Measures

3.1 Application of an Integrated Criminal-Law Approach

Integrated criminal-law thinking emphasizes that, in applying the criminal law, the offender's conduct should be considered as an integrated whole rather than by isolating a single link or factor; it is a comprehensive mode of legal reasoning. Housing-for-pension fraud cases exhibit pronounced civil-criminal intersection characteristics: perpetrators meticulously design multi-stage, multi-method schemes in which every link is interdependent—from property appraisal and contract execution to pension disbursement—and any one of those links viewed in isolation may not reveal illegality; consequently, judicial practice often characterizes such matters as ordinary civil disputes, reflecting the schemes' strong concealment. Therefore, case-handling authorities should heighten their sensitivity to criminalization of analogous cases and, while adhering to the twin principles of legality (*nullum crimen, nulla poena sine lege*) and proportionality between culpability and punishment, apply an integrated criminal-law perspective to bring housing-for-pension fraud within a comprehensive analytical framework; only by doing so can the criminal law be applied effectively. First, fraudulent conduct should be evaluated holistically rather than limited to stage-specific appearances: the intrinsic connections and interactions among the various fraudulent links and techniques

must be considered so as to grasp the overall nature and harmfulness of the scheme. Second, attention must be paid to a comprehensive assessment of subjective malice and social harm in comparable cases: on the one hand, conduct a deep analysis of the actors' motives and objectives to fully appraise their subjective culpability; on the other hand, consider not only the direct economic losses suffered by the elderly but also the indirect harms to their livelihoods, families, and social stability in order to reach a rounded determination of social danger. Third, ensure consistency in the criminal-law application to housing-for-pension fraud by situating such cases within the broader criminal-law system, accurately distinguishing them from ordinary illegal fundraising, and thereby securing correct charge selection and upholding the authority of the criminal law.

3.2 Determination of the "Four Characteristics" in Fundraising Conduct under Housing-for-Pension Fraud

According to Article 1 of the Interpretation of the Supreme People's Court on Several Issues Concerning the Specific Application of Law in the Trial of Criminal Cases Involving Illegal Fundraising (Fa Shi [2022] No. 5, hereinafter referred to as the Interpretation), the determination of "illegally absorbing public deposits or disguised absorption of public deposits" must simultaneously satisfy four conditions—illegality, publicity, enticement by interest, and sociality (collectively referred to as the "Four Characteristics"). In the context of housing-for-pension fraud cases, the fundraising behavior carried out under the guise of "housing-for-pension" schemes exhibits these "Four Characteristics" quite prominently.

3.2.1 Determination of Illegality

Illegality refers to the absorption of funds without authorization from the relevant authorities or through the pretense of legitimate business operations. Companies involved in housing-for-pension schemes publicly raise funds under this label, and in most cases, have not obtained formal approval from the competent authorities. Furthermore, the Guiding Opinions of the China Insurance Regulatory Commission (CIRC) on the Pilot Program of Reverse Mortgage Pension Insurance for the Elderly establish strict qualification requirements for insurance companies applying to carry out housing-for-pension business, including: (1) at least five years of operation with registered capital of no less than RMB 2 billion; (2) compliance with solvency management regulations for insurance companies, with a solvency adequacy ratio of no less than 120% at the end of the previous year and the most recent quarter when applying for the pilot; (3) strong actuarial expertise, enabling scientific and reasonable pricing of reverse mortgage pension insurance; (4) employment of professional legal personnel capable of handling legal issues related to reverse mortgage pension insurance; (5) employment of real estate property management professionals or commissioning qualified property management agencies, capable of routine maintenance and lawful disposal of mortgaged property; (6) a sound corporate governance structure, internal risk management, and control systems, enabling specialized management and independent accounting for reverse mortgage pension insurance operations; and (7) compliance with other conditions stipulated by the CIRC.

These regulations set thresholds regarding a company's operating history, registered capital, solvency, and staffing of specialized personnel. In practice, most implicated companies fall far short of the required



RMB 2 billion registered capital. For instance, Beijing Puban Investment Management Co., Ltd. has a registered capital of RMB 10 million; Beijing Xinyuan Shengye Biotechnology Co., Ltd., RMB 10 million; Beijing Zhong'an Minsheng Asset Management Co., Ltd., RMB 500 million; and Beijing Guomin Xinhe Investment Fund Co., Ltd., RMB 500 million. The actual capital of these companies is insufficient to sustain operations, rendering them unable to withstand extravagant expenditures, resulting in rapid disruption of their capital chains and subsequent exposure. Such criminal activities are typically conducted under the guise of formally established companies, yet most lack qualifications to manage private equity funds. Although these activities often exhibit a degree of organized group behavior, their primary objective remains the rapid appropriation of elderly individuals' money and property through publicity, inducement, and other manipulative tactics to accumulate capital in a short time. These implicated companies generally neglect key factors required for sustainable operations, such as accurate fund calculation, proper fund utilization, and staffing with qualified professionals. Consequently, despite the involvement of numerous perpetrators, they frequently fail to meet the standards necessary to legitimately carry out housing-for-pension insurance operations.

3.2.2 Determination of Publicity

Publicity refers to the act of disseminating information to the public through channels such as the internet, media, promotional meetings, leaflets, or mobile messages. Of course, the Interpretation does not exhaustively define all means of public promotion. According to the Opinions of the Supreme People's Court, the Supreme People's Procuratorate, and the Ministry of Public Security on Several Issues Concerning the Application of Law in Handling Criminal Cases of Illegal Fundraising (Gong Tong Zi [2014] No. 16), public promotion encompasses "spreading information about fund-raising to the general public through various channels, as well as knowingly allowing such information to be disseminated to the public." In the cases at hand, implicated companies have publicly marketed their housing-for-pension financial projects to elderly populations through multiple channels, including in-person promotion by sales staff, distribution of project brochures, online platforms, and news media. They have also organized tourism activities and held promotional meetings as part of their strategy to actively publicize and sell these investment products.

3.2.3 Determination of Enticement by Interest

Enticement by interest refers to the promise of repayment or returns within a specified period through monetary payment, physical assets, equity, or other forms. This characteristic encompasses two aspects: remunerative nature and promissory nature. On the one hand, when implicated companies enter into reverse mortgage contracts with elderly individuals, they often promise high returns, satisfying the remunerative aspect. On the other hand, the contracts explicitly stipulate the annual interest rate of the pension investment, fixed-term interest payments, and repayment of principal upon maturity, thereby indirectly promising investors the repayment of principal and interest, fulfilling the promissory aspect.

3.2.4 Determination of Sociality

Sociality refers to the absorption of funds from the general public, i.e., from socially unspecified targets.

It is an essential characteristic of illegal fundraising, encompassing two aspects: extensiveness and indefiniteness. In housing-for-pension fraud cases, the large number of elderly victims reflects the extensiveness of the conduct. At the same time, the victims in these cases are non-specific elderly groups who generally lack investment experience and have almost no capacity to bear the potential risks arising from mortgaging their property. These features also satisfy the requirement of indefiniteness inherent in illegal fundraising activities.

3.3 Selection of Charges for Housing-for-Pension Fraud

In housing-for-pension fraud cases, defendants are frequently convicted of either fundraising fraud (crime of fundraising fraud) or illegally absorbing public deposits. Although the facts of these cases are often similar, the resulting convictions differ, reflecting a disorder in the selection of charges. This paper contends that convicting the principal offenders of fundraising fraud is more reasonable and accurate. The essential characteristic of illegal fundraising lies in the intention of illegal appropriation, using fraudulent methods to raise funds. This encompasses both the objective conduct of the defendant—raising funds through fraudulent means—and the subjective intent regarding the raised funds, namely the purpose of illegal appropriation. The element of "illegal appropriation" is a key criterion distinguishing the crime of fundraising fraud from the crime of illegally absorbing public deposits.

3.3.1 Determination of Raising Funds through Fraudulent Means

As a typical civil-criminal intersection case, housing-for-pension fraud involves intricate civil-law relationships. Beyond the property owners (the defrauded elderly) and the fund-raising parties (implicated companies), there exist third-party lenders. These third-party lenders can be categorized as malicious third parties and bona fide third parties. Malicious third parties collude with the fund-raising entities to illegally appropriate the elderly's property through legal procedures such as litigation or arbitration. Bona fide third parties, on the other hand, are unaware of the indemnity contract relationship between the property owners and the fund-raising parties; if the fund-raising party's capital chain collapses and it fails to fulfill repayment obligations, the bona fide third party has the right to receive priority repayment from the mortgaged property under the loan contract. In this process, the property owner enters into a mortgage-loan contract with the lender, while the fund-raising party signs an indemnity contract and a pension service contract with the property owner. Specifically, the property owner mortgages the house to the lender to obtain a loan, which is then directly used to purchase financial products offered by the fund-raising company or entrusted to invest in its wealth management projects. The fund-raising party receives the full loan amount and indemnifies the lender for principal and interest, while providing the property owner with scheduled financial returns within the agreed period. However, all of these transactions are orchestrated on the basis that the lender employs fraudulent means to facilitate the tripartite contractual relationships.

First, the mortgage-loan contract between the property owner and the lender is carried out entirely under the guidance and control of the fund-raising party. In this process, the fund-raising party exploits the elderly's lack of legal knowledge and, under the pretext of procedural requirements, fraudulently obtains the property owner's bank cards, USB security tokens, and passwords, personally handling the related proce-



dures. It is worth noting that whether the financial institution's review of the property owner's qualifications and the notary office's notarization were prudent, and whether the handling of relevant procedures was lawful, as well as whether there was financial corruption or regulatory negligence, all require investigation by the authorities. In addition, the fund-raising party is suspected of forging loan documents and concealing key content in the mortgage-loan contracts. These actions include, but are not limited to: (1) falsifying basic information of the property owner to quickly process mortgage loans, presenting them as having sufficient repayment capacity; (2) altering the stated purpose of the loan—rather than describing it as for purchasing pension financial products, the loans are misrepresented as funding the elderly's daily shop operations or investments; (3) setting loan terms that do not extend until the property owner's death, but rather short-term durations typical of standard mortgage-loan contracts; and (4) assigning all contractual default liabilities to the property owner, while the lender, ostensibly serving as an intermediary, remains entirely outside the contractual obligations. Second, the indemnity contract between the property owner and the fund-raising party does not eliminate the legal risk of the property being executed. Under the inducement of the fund-raising party, the property owner is led to believe that they only need to mortgage their house and receive periodic financial returns, without personally repaying the principal and interest. However, the fund-raising party is not a party to the aforementioned mortgage-loan contract; the property is actually mortgaged to the lender rather than the fund-raising party. Therefore, if the property owner fails to repay the debt on time or cannot repay it, they still bear joint liability and face the risk of property execution. Finally, in the pension investment contract signed between the property owner and the fund-raising party, the latter, in order to gain the trust of the property owner, conceals the company's actual financial condition even after the fund-raising party's capital chain collapses, fabricates various financial products and investment projects, and promises repayment with interest. This creates the illusion for the elderly that investment guarantees returns, thereby increasing the investment risk.

3.3.2 Determination of "Intention of Illegal Appropriation" in Fundraising

Article 7 of the Interpretation clearly stipulates that when raising funds through fraudulent means, any of the following circumstances can be recognized as indicating an intention of illegal appropriation: (1) funds are not used for production or business activities, or the scale of funds used for such activities is clearly disproportionate to the total funds raised, resulting in the inability to return the raised funds; (2) funds are squandered recklessly, leading to the inability to repay investors; (3) the fund-raiser absconds with the raised funds; (4) funds are used for illegal or criminal activities; (5) funds are withdrawn, transferred, or concealed to evade repayment; (6) accounting records are hidden or destroyed, or fake bankruptcy/closure is orchestrated to avoid returning funds; (7) the fund-raiser refuses to disclose the whereabouts of the funds to evade repayment; and (8) any other circumstances that can demonstrate an intention of illegal appropriation. Additionally, according to the Minutes of the Symposium on Issues Concerning Internet Financial Crime Cases (Supreme People's Procuratorate [2017] No. 14), whether an intention of illegal appropriation exists should be comprehensively assessed based on three factual aspects: the authenticity of the financing project, the destination of the funds, and the ability to repay.

Specifically, in housing-for-pension fraud cases, the assessment of the authenticity of the financing project is critical. Although the implicated housing-for-pension projects do exist, their operational methods are highly problematic. The project operators often masquerade general mortgages as reverse mortgages and, for the purpose of quickly liquidating the properties, exaggerate and misrepresent to elderly investors the expected returns, stability, and duration of the financial products in an unrestrained and reckless manner, far exceeding ordinary promotional claims, thereby reaching the level of criminal fraud. Second, scrutiny of the destination of funds is essential. The core purpose of financial investment projects is to achieve profits through professional investment strategies for the benefit of investors. However, after liquidating the mortgaged properties, the fund-raising parties use the proceeds abnormally—for example, to pay interest to property owners, repay loan principal and interest, cover company operating expenses, or fund personal consumption—rather than investing in actual financial projects, or the proportion of funds allocated to legitimate investment projects is clearly insufficient relative to the funds raised. Given the large sums raised through property liquidation, even if the company incurs investment losses, the funds would generally suffice to sustain normal operations for a long period. If, however, the company faces a sudden shortage of funds and cannot pay the promised investment returns or loan principal and interest in the short term, the legitimacy of fund allocation is questionable. Moreover, the fund-raising party may maliciously consume the mortgage loan to purchase high-risk financial products within the company. Once the capital chain collapses, the fund-raising party may collude with the lender in litigation or arbitration, leaving the elderly in a "loss of both house and money" situation. Finally, the ability to repay must be assessed. The fund-raising party must simultaneously cover both the principal and interest owed to property owners and the principal and interest owed to lenders, in addition to company operating expenses. This imposes extremely high requirements on the company's revenue to maintain financial balance. One must consider the profitability of the financial project, such as investment return ratios and agreed-upon yields, as well as examine the company's operational status and financial strength—particularly whether registered capital is sufficient and whether the company excessively relies on new funds to repay old investors. If returns are paid to old investors primarily using funds from new investors rather than actual investment profits, and new investment inflows continuously decline, the capital chain inevitably collapses, constituting a classic Ponzi scheme.

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