

Buy back guarantee sebagai tanggung jawab developer terhadap konsumen berdasarkan perjanjian kredit secara indent = Buy back guarantee for against developer responsibilities under the consumer credit agreement by indent / Yuniarsih

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Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=20365011&lokasi=lokal>

Abstrak

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Untuk memperoleh keyakinan atas kemampuan dan kesanggupan Debitur untuk melunasi kewajibannya, sebelum memberikan kredit, bank harus melakukan penilaian yang seksama terhadap watak, kemampuan, modal, agunan dan prospek usaha Debitur serta akan lebih terjamin lagi jika diperkuat dengan adanya penjamin (borgtoch). Dalam hal pemberian kredit pemilikan rumah dan properti lainnya dari developer disyaratkan adanya perjanjian buy back guarantee antara developer dengan Bank pemberi kredit. Pokok permasalahan penelitian, bagaimana klausula tentang buy back guarantee dari Developer dituangkan dalam perjanjian kerjasama antara Bank dengan Developepor dalam rangka penyediaan fasilitas kredit indent serta buy back guarantee dari Developer dapat memberikan perlindungan bagi konsumen perumahan. Penelitian menggunakan metode pendekatan yuridis normatif dengan penelitian kepustakaan sebagai sumber data. Hasil Penelitian Buy Back Guarantee, dalam perjanjian penjaminan dituangkan dalam perjanjian. Apabila Debitur tidak membayar angsuran kredit selama 6(enam) bulan berturut-turut karena suatu sebab apapun juga, atau developer tidak atau belum menyerahkan Dokumen Jaminan atas nama masing-masing Debitur, maka Developeer wajib mengambil alih seluruh hak-hak dan kewajiban Bank selaku Kreditur, baik secara subrogasi maupun dengan Novasi, dengan membayar lunas seluruh kewajiban Debitur yang terhutang kepada Bank, hutang pokok, bunga, biaya dan denda keterlambatan. Konsumen Perumahan terlindungi oleh adanya Buy Back Guarantee baik dalam klausul pada Perjanjian Kerjasama antara Bank dengan Developer maupun yang dibuat dalam perjanjian tersendiri sehingga konsumen perumahan dapat terhindar dari tuntutan pembayaran dari Bank. Konsumen dapat mengajukan gugatan ke Pengadilan atas wanprestasi yang dilakukan oleh Developer bagi kepentingan Konsumen dan sementara proses peradilan tersebut sampai pada suatu putusan yang mengikat (inkrah) konsumen dapat menghentikan pembayaran kepada Bank. Disampaikan saran, pelaksanaan Buy Back Guarantee oleh Developer terhadap bank pengikatan jaminan asset lainnya, dan bank pemberi kredit mensosialisasikan ketentuan dalam SEBI No. 15/40/DKMP yang terkait dengan ketentuan kredit properti baik kepada konsumen perumahan maupun developer.

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ABSTRACT

To gain confidence in the ability of the debtor and the ability to repay their obligations, before providing credit, banks should conduct a careful assessment of the character, ability, capital, collateral and the debtor's business prospects and be more secure if reinforced by the guarantor (borgtoch). In the case of mortgages and other property of the developer required the existence of an agreement between the developer buy back guarantee to the lending bank. The issue of research, how about a buy back guarantee clause of Developer set forth in the agreement between the Bank and Developepor in the provision of credit facilities to indent and buy back guarantee of Developers can provide protection for residential consumers. Research using

normative juridical approach to the study of literature as a source of data. Results Buy Back Guarantee, set forth in the underwriting agreement Testament. If the debtor does not pay the loan installments for 6 (six) consecutive months for any reason whatsoever, or developer does not guarantee or not submit documents on behalf of each Debtor, then Developer shall take over all the rights and obligations of the Bank as Creditor, both subrogation and with Novation, the Debtor paid off all obligations owed to the Bank, in principal, interest, fees and late fees. Housing Consumers are protected by the presence of both the Buy Back Guarantee clause of the Cooperation Agreement between the Bank and the Developer as well as those made in a separate agreement that residential consumers can avoid the payment of bank charges. Consumers can file a lawsuit to court over breach of contract made by the Developer to the interests of consumers and while the judicial process to arrive at a decision that is binding consumers can stop payments to the Bank. Delivered suggestions, implementation Developers Buy Back Guarantee by the binding of a bank guarantee other assets, and the bank lender provisions of SEBI No. socialize. 15/40/DKMP associated with the provision of credit to the consumer residential properties and developers.