

# Tinjauan hukum mengenai dukungan pengadaan tanah (land capping) sebagai instrumen pembagian resiko (risk sharing) dalam pembangunan infrastruktur jalan melalui kerjasama pemerintah dan (swasta) = Legal analysis concerning land acquisition support land capping as instrument of risk sharing in road infrastructure development through public private partnership (PPP)

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## Abstrak

**ABSTRAK**  
Skripsi ini membahas mengenai pembagian resiko antara pemerintah dan swasta dalam suatu pembiayaan pembangunan melalui KPS, pengaturan mengenai pembangunan infrastruktur jalan di Indonesia, dan pengaturan mengenai pembagian resiko di bidang pengadaan tanah dalam pembangunan infrastruktur jalan di Indonesia. Dalam empat tahun terakhir, pemerintah memprioritaskan reformasi sektoral dan lintas sektoral untuk mendorong peran serta swasta dalam pembangunan infrastruktur dengan mengedepankan prinsip kerjasama yang adil, terbuka, transparan, kompetitif, dan saling menguntungkan. Komitmen pemerintah dalam kemitraan ini di antaranya terlihat dari berbagai penyempurnaan kebijakan, peraturan perundang-undangan, dan kelembagaan, serta pengaturan tentang dukungan pemerintah dan pengelolaan resiko dalam proyek kerja sama antara pemerintah dan swasta (KPS). Namun kendala-kendala masih ditemukan seperti: kenaikan harga tanah, status tanah yang dimiliki Pemerintah namun dibiayai investor swasta, pengadaan tanah, kelembagaan dan prosedur badan layanan umum untuk pendanaan tanah, kemampuan investor swasta dalam pendanaan pengadaan tanah, dan adanya ruas jalan tol yang layak secara ekonomi namun belum layak secara finansial. Skripsi ini menjelaskan mengenai kerjasama Pemerintah dan Swasta (KPS) di bidang infrastruktur jalan tol di Indonesia setelah dikeluarkannya Undang-Undang Nomor 38 Tahun 2004 tentang jalan (UU No. 38/2004) yang menggantikan Undang-Undang Nomor 13 Tahun 1980 tentang Jalan (UU No. 13/1980)

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## **ABSTRACT**

This thesis discusses the sharing of risks between the government and the private sector in the financing of development through PPP, the provision of road infrastructure development in Indonesia, and the regulation of risk sharing in the field of land acquisition in road infrastructure development in Indonesia. In the last four years, the government prioritizes sectoral and cross sectoral reforms to encourage private participation in infrastructure development with emphasis on the principles of cooperation that is fair, open, transparent, competitive, and mutual benefit. Government's commitment to this partnership can be seen from various improve policies, laws, and institutions, as well as regulations on government support and risk management in a cooperative project between the government and the private sector (PPP). However, the obstacles are still found such as: rising land prices, the status of government-owned land but financed by the private investors, land acquisition, institutional and public service agency procedures for financing the land, the ability of private investors in funding for land acquisition, and the existence of viable toll roads economically but not financially feasible. This thesis

describes the public-private partnership (PPP) in the field of the highway infrastructure in Indonesia after the issuance of Law No.

38 year 2004 concerning the Road (Law No.38/2004) as new law which replaced the previous law, Law No.13 year 1980 (Law No. 13/1980)., This thesis discusses the sharing of risks between the government and the private sector in the financing of development through PPP, the provision of road infrastructure development in Indonesia, and the regulation of risk sharing in the field of land acquisition in road infrastructure development in Indonesia. In the last four years, the government prioritizes sectoral and cross sectoral reforms to encourage private participation in infrastructure development with emphasis on the principles of cooperation that is fair, open, transparent, competitive, and mutual benefit. Government's commitment to this partnership can be seen from various improve policies, laws, and institutions, as well as regulations on government support and risk management in a cooperative project between the government and the private sector (PPP). However, the obstacles are still found such as: rising land prices, the status of government-owned land but financed by the private investors, land acquisition, institutional and public service agency procedures for financing the land, the ability of private investors in funding for land acquisition, and the existence of viable toll roads economically but not financially feasible. This thesis describes the public-private partnership (PPP) in the field of the highway infrastructure in Indonesia after the issuance of Law No.

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