

Pengikatan jaminan atas bangunan yang berdiri di atas milik pihak lain = Binding guarantee of the building which stood on land that owned by other parties

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Abstrak

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Lembaga jaminan fidusia sudah sangat tua dan telah dikenal dalam hukum Romawi, lembaga ini dikenal dengan fiduciare eigendom overdracht. Lembaga ini timbul karena peraturan perundang-undangan yang mengatur gadai tidak dapat lagi mengakomodasi kepentingan masyarakat.

Lembaga ini diakui oleh yurisprudensi Belanda tahun 1929. Dalam perkembangan yurisprudensi Indonesia dijumpai keputusan Mahkamah Agung Republik Indonesia tanggal 1 September 1971 yang isinya menyatakan bahwa hanya benda-benda yang bergerak saja yang dapat dijadikan objek jaminan fidusia.

Melihat prospek perkembangan dari lembaga ini kemudia pada tahun 1999 secara khusus dibuatlah Undang-Undang Nomor 42 tentang Jaminan Fidusia. Dalam Undang-Undang ini tidak hanya benda bergerak saja yang dapat dijadikan jaminan tetapi juga benda tak bergerak dengan perkecualian benda tersebut tidak dapat dijadikan jaminan dengan menggunakan Hak Tanggungan. Hal ini sebenarnya untuk mengantisipasi dari banyak orang yang mengalami kesulitan untuk mencari modal, dikarenakan tidak semua orang mempunyai benda yang bisa dijamin dengan lembaga jaminan yang lain selain fidusia.

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ABSTRACT

The fiduciary warranty institutions already exist and has been known, in Rome Imperial at first, this institution known as fiduciare eigendom overdracht. This constitution came because of the constitution which role the forfeit cannot afford the society needs again.

This institution already recognized in Netherlands jurisprudence in 1929. In their prosperity specially in Indonesia, in high court of justice on September 1, 1971 that only the movable things which can be the object of the fiduciary warrant.

Seeing the prospect fiduciary warranty institutions, in 1999 as specific arrange in number 42 constitution about fiducary warrant is not only arrange in movable things as a warranty but also for immovables with an exception, that things can't be able to be guaranteed as using a task right. Actually to anticipated from many people which have a problem to have a money capital. Because not every person have a things to take a place as a guarantee thing in other place except the fiducias.;The fiduciary warranty institutions already exist and has been known, in Rome Imperial at first, this institution known as fiduciare eigendom overdracht. This

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