

## Kepailitan terhadap penanggung utang sebagai upaya kreditur memperoleh pelunasan utang debitur yang wanprestasi = Bankruptcy of guarantor as creditor effort to obtain the debt payment from default debtor

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### Abstrak

[Penelitian ini bertujuan untuk mengetahui dan menganalisa apakah penanggung utang dapat dimohonkan pailit oleh kreditur dengan berdasarkan pada utang-utang debitur utama pada saat terjadi wanprestasi serta prosedur pengajuan

permohonan pailit apabila penanggung utang dapat dipailitkan oleh kreditur berdasarkan pada utang debitur utama yang wanprestasi. Penelitian ini menggunakan metode penelitan hukum yuridis normatif, dengan cara menganalisa norma-norma hukum yang berlaku dalam peraturan perundang-undangan dibidang kepailitan. Bahwa penanggung utang dapat diajukan pailit oleh kreditur dengan didasarkan pada sisa utang yang belum dibayarkan oleh debitur utama, dan pengajuan pailit tersebut dilakukan dengan cara terlebih dahulu mempailitkan

debitur utama. sisa utang yang belum terbayarkan setelah dilakukan pemberesan utang debitur utama merupakan utang yang masih harus ditanggung dan menjadi kewajiban bagi penanggung untuk melunasinya. Bahwa setelah dilakukan penelitian lebih lanjut dapat disimpulkan bahwa penanggung utang dapat dipailitkan oleh kreditur dengan didasarkan pada sisa utang debitur utama berdasarkan perjanjian pokok. Hal mana menunjukkan bahwa kewajiban pembayaran sisa utang tersebut berpindah pada penanggung dengan segala akibat hukumnya. Permohonan pailit terhadap penanggung.

.....The purpose of this research are to know and analyze where creditor are able to file the bankruptcy lawsuit against the guarantor base on debt of the default debtor, and the procedures of bankruptcy lawsuit if the creditor are able to file the bankruptcy lawsuit against the guarantor base on debt of the default debtor. The legal research method to analyze the data are normative law (yuridis normatif), by analyze prevailing legal norms on bankruptcy sector. The Creditor are able to file the bankruptcy lawsuit to the guarantor base on outstanding debt of main debtor, and the bankruptcy lawsuit to the guarantor are filed after prior filed the bankruptcy lawsuit to the main debtor. The guarantor is responsible to pay the outstanding debt after the debt settlement of main debtor. After doing the research we are in conclusions that the guarantor are able to be filed of bankruptcy by the creditor base on outstanding debt of main debtor. Were the obligation to pay the outstanding debt are switch to the guarantor with all law consequences. The bankruptcy lawsuits to the guarantor are filed after prior filed the bankruptcy lawsuit to the main debtor. Unfortunately the Indonesian civil code regulates the exception of those regulations that made the differences of the procedure to file the bankruptcy lawsuits. Therefore we suggest for making the specific regulation for submitting the bankruptcy lawsuits to the guarantor. The purpose of this research are to know and analyze where creditor are able to file the bankruptcy lawsuit against the guarantor base on debt of the default debtor, and the procedures of bankruptcy lawsuit if the creditor are able to file the bankruptcy lawsuit against the guarantor base on debt of the default debtor. The legal research method to analyze the data are normative law (yuridis normatif), by analyze prevailing legal norms on bankruptcy

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