

Konsep jaminan benda bergerak: Studi perbandingan Indonesia dengan Amerika Serikat = Security interest in movable property concept: Comparison study between Indonesia and United States of America.

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Abstrak

Jaminan terhadap benda bergerak di Indonesia terdiri atas lembaga jaminan gadai, fidusia, dan resi gudang. Terhadap jaminan benda bergerak tersebut diatur dalam undang-undang yang berbeda-beda, sehingga pengaturan terkait jaminan gadai, fidusia, maupun resi gudang memiliki beberapa perbedaan. Sementara itu, pengaturan terkait jaminan benda bergerak di Amerika Serikat diatur secara seragam pada satu pengaturan terkodifikasi, yaitu pada Article 9 Uniform Commercial Code. Ketentuan terkait pelaksanaan proses eksekusi jaminan fidusia di Indonesia baru saja mengalami perubahan dengan adanya Putusan Mahkamah Konstitusi Nomor 18/PUU-XVII/2019, khususnya mengenai cidera janji dan eksekusi jaminan fidusia, menjadi berubah penafsirannya. Pengaturan tersebut berbeda dengan tata cara eksekusi yang terdapat di Amerika Serikat. Hal ini tentunya menimbulkan berbagai perdebatan di kalangan ahli hukum. Oleh karena itu, sebagai fungsi inspiratif, dilakukan suatu perbandingan hukum konsep jaminan benda bergerak antara Indonesia dengan Amerika Serikat dengan metode perbandingan berbentuk yuridis-normatif. Dengan adanya penelitian tersebut, dapat dilihat persamaan maupun perbedaan pengaturan terkait konsep jaminan benda bergerak di Indonesia dan Amerika Serikat..... Security interest in movable property in Indonesia consists of pledge, fiduciary, and warehouse receipts. All of them are regulated in different laws, so that arrangements regarding pledge, fiduciary and warehouse receipts have several differences. Meanwhile, the regulation regarding security interest in movable property in the United States is uniformly regulated in a codified law, namely in Article 9 of the Uniform Commercial Code. The concept of fiduciary security in Indonesia which is regulated in the Law No. 42 of 1999 concerning Fiduciary Security has recently undergone amendments with the Constitutional Court Decision No. 18/PUU-XVII/2019. These arrangements differ from those in the United States of America. This of course has led to various debates among legal experts. Therefore, as an inspirational function, a legal comparison of the concept of movable property security between Indonesia and the United States is carried out using the juridical-normative comparison method. With this research, it can be seen the similarities and differences in regulations related to the concept of movable property collateral in Indonesia and the United States.