

Pelindungan Hukum Terhadap Risiko Pengalihan Hak Tagih (Piutang) melalui Lelang sebagai Alternatif Penyelesaian Kredit Perbankan = Legal Protection Against the Risk of Claim Rights (Receivable) Transfer Through Auction as an Alternative for Banking Credit Settlement

Sita Adelia Jatu Wijayanti, author

Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=9999920539311&lokasi=lokal>

Abstrak

Tulisan ini menganalisis pelindungan hukum terhadap risiko pengalihan hak tagih (piutang) melalui lelang sebagai alternatif penyelesaian kredit perbankan. Tulisan ini disusun menggunakan metode penelitian doktrinal. Hasil penelitian menunjukkan risiko hukum pengalihan hak tagih (piutang) melalui lelang ditentukan oleh dua faktor yaitu terkait keberadaan jaminan yang melekat pada hak tagih (piutang) yang dialihkan dan terkait pemberitahuan (betekening) terjadinya pengalihan hak tagih (piutang) melalui lelang kepada debitur. Bentuk pelindungan hukum terhadap risiko pengalihan hak tagih (piutang) melalui lelang direpresentasikan dalam dokumen Risalah Lelang yang merupakan Berita Acara Pelaksanaan Lelang sebagai bukti peralihan hak. Risalah Lelang dapat memberikan kepastian hukum kepada para pihak dalam lelang hak tagih (piutang) sepanjang di dalam Risalah Lelang tersebut memuat klausul pengalihan dan penyerahan hak tagih (piutang) serta terdapat klausul yang mensyaratkan adanya tanggungjawab penyerah piutang atau penerima piutang untuk melakukan pemberitahuan, memperoleh persetujuan tertulis atau pengakuan dari debitur atas beralihnya hak tagih (piutang) tersebut atau di dalam Risalah Lelang terdapat dokumen yang merepresentasikan adanya pemberitahuan, bukti persetujuan tertulis, atau pengakuan debitur. Penyerah piutang selaku pemohon lelang juga harus menjamin kebenaran piutang, dan penyerah piutang berwenang melakukan pengalihan tersebut, serta menjamin hak tagih (piutang) bebas dari tuntutan hukum apapun dan dari pihak manapun.

.....This paper analyzes legal protection against the risk of claim rights (receivable) transfer through auctions as an alternative for bank credit settlement. This article was prepared using doctrinal research methods. The research results show that the legal risk of claim rights (receivable) transfer through auction is determined by two factors, namely related to the existence of collateral attached to the transferred claim rights (receivables) and related to notification (betekening) of the transfer of claim rights (receivables) through auction to debtors. A form of legal protection against the risk of claim rights (receivable) transfer through auction is represented in the Auction Minutes document which is the Minutes of Auction Implementation as proof of the transfer of rights. The Auction Minutes can provide legal certainty to the parties in the auction of claim rights (receivables) as long as the Auction Minutes contain a clause on the transfer and assignment of claim rights (receivables) and there is a clause that requires the responsibility of the person giving the receivables or the recipient of the receivables to provide notification, proof of written agreement, or acknowledgment from the debtor regarding the transfer of claim rights (receivables) or in the Auction Minutes there is a document that represents notification, proof of written agreement, or acknowledgment of the debtor. The handover of the receivables as the auction applicant must also guarantee the veracity of the receivables, and the handover of the receivables has the authority to carry out the transfer, as well as guaranteeing the right (receivables) free from any legal claims and from any party.