

Reformasi Hukum Jaminan Benda Bergerak di Indonesia: Analisis Permasalahan Hukum di Indonesia dan Pembelajaran dari New Zealand Personal Property Securities Act dan UNCITRAL Legislative Guide on Secured Transactions = Reforming the Law on Security Over Movable Assets in Indonesia: Analysis of the Issues in Indonesia and Lessons from the New Zealand Personal Property Securities Act and the UNCITRAL Legislative Guide on Secured Transactions

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Abstrak

Tulisan ini mengkaji pengaturan hukum jaminan benda bergerak di Indonesia serta permasalahannya, dengan membandingkannya dengan Personal Property Securities Act di Selandia Baru dan UNCITRAL Legislative Guide on Secured Transactions. Penelitian ini menggunakan metode penelitian doktrinal. Hukum jaminan benda bergerak di Indonesia saat ini terfragmentasi dalam berbagai peraturan seperti KUHPerdara, UU Jaminan Fidusia, dan UU Sistem Resi Gudang, dengan masalah utama biaya tinggi, sistem pendaftaran terpisah, pembatasan objek jaminan, dan hambatan eksekusi. Personal Property Securities Act dan UNCITRAL Legislative Guide on Secured Transactions menawarkan solusi melalui kerangka hukum terpadu berbasis security interest yang mengintegrasikan berbagai jenis hak jaminan. Personal Property Securities Act, misalnya, berhasil menyederhanakan sistem hukum, menciptakan aturan prioritas yang jelas, dan memperkenalkan sistem registrasi elektronik terpusat. Reformasi ini meningkatkan kepastian hukum, efisiensi transaksi, serta akses terhadap kredit, khususnya bagi usaha kecil dan menengah. Hal ini terlihat dari skor B-READY Selandia Baru sebesar 85,04, jauh lebih tinggi dibandingkan Indonesia yang berada di kuintil terbawah dengan skor 56,51. Reformasi hukum jaminan benda bergerak di Indonesia perlu mengadopsi pendekatan terpadu seperti dalam Personal Property Securities Act dan UNCITRAL Legislative Guide on Secured Transactions. Langkah-langkah yang direkomendasikan meliputi integrasi kerangka hukum berbasis security interest, penyederhanaan prosedur pembebanan, pengembangan sistem registrasi elektronik, pengaturan hak mendahului yang jelas, serta fleksibilitas dalam eksekusi jaminan. Dengan reformasi ini, Indonesia dapat meningkatkan akses kredit, mendukung inklusi keuangan, memperbaiki iklim bisnis, dan mendorong pertumbuhan ekonomi yang berkelanjutan.

.....This paper examines the regulation of security over movables in Indonesia and its associated issues by comparing it with the Personal Property Securities Act in New Zealand and the UNCITRAL Legislative Guide on Secured Transactions. The research is conducted using a doctrinal research method. Currently, the law on movable collateral in Indonesia is fragmented across various regulations such as the Civil Code, the Fiduciary Security Law, and the Warehouse Receipt System Law, with key issues including high costs, separate registration systems, limitations on collateral types, and obstacles in enforcement. The Personal Property Securities Act and the UNCITRAL Legislative Guide on Secured Transactions offer solutions through an integrated legal framework based on security interests that consolidates various types of collateral rights. For example, the PPSA has successfully simplified the legal system, created clear priority rules, and introduced a centralized electronic registration system. These reforms have improved legal certainty, transaction efficiency, and access to credit, particularly for small and medium-sized enterprises.

This is reflected in New Zealand's B-READY score of 85.04, which is much higher than Indonesia's score of 56.51, placing it in the lowest quintile. Reform of movable collateral law in Indonesia should adopt an integrated approach similar to the Personal Property Securities Act and the UNCITRAL Legislative Guide on Secured Transactions. Recommended steps include integrating a security interest-based legal framework, simplifying encumbrance procedures, developing an electronic registration system, establishing clear rules with regard to priority rights, and providing flexibility in collateral enforcement. With these reforms, Indonesia could improve credit access, support financial inclusion, enhance the business climate, and promote sustainable economic growth.