

TELAAH YURIDIS PERKEMBANGAN LEMBAGA DAN OBJEK JAMINAN (GAGASAN PEMBARUAN HUKUM JAMINAN NASIONAL)

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Abstract

The presence of institutions which had specifically functions such as Deposit Insurance Corporation (LPS), Clearing and Guarantee Corporation (CGC), the Social Security Agency (BPJS), PT. Indonesia Infrastructure Guarantee Fund (PT. PII), Guarantee Insurance Program, jamit shows how important this guarantee institutions in various activities, especially economics and business. In practice, any kind of object guarantee is having development it self. Enacted of the Law No: 9 of year 2011 and which has been amended with Law No. 9 of Year 2006 regarding Warehouse Receipt System enriches existing material guarantees and securities instrument as collateral object. At the practical level, object guarantee is develop according to the needs of society, so it is found in the form of Rights guarantees the lease, Work Order, Decree of Appointment, Delivery Order, Cover Note even the Sale and Purchase Agreement were agreed as a way of providing certainty implementation of obligations to creditors. This paper intends to review the development of institutions and the security object in the perspective of security law, and due to produce a study of the security law that can be used to initiate the formation of the national security law. Based on the results of the study with normative juridical approach, the result that the development of institutions and security object, both set in the legislation as well as those found in the practice of showing the urgency assurance in a various activities, particularly business economics, and enrich the security law in Indonesia. However, the development of institutions and objects that have not fully guarantee entry into the legal system guarantee, thus requiring a legal basis for its existence. Based on the results of the study, the presence of which had national security law as the legal basis necessary to provide certainty and legal protection for the parties.

Keywords: development of security - the national security law

Abstrak

Hadirnya lembaga-lembaga yang secara khusus menyelenggarakan fungsi jaminan antara lain Badan Penyelenggara Jaminan Sosial (BPJS), Lembaga Penjamin Simpanan (LPS), Lembaga Kliring dan Penjaminan (LKP), PT Penjamin Infrastruktur Indonesia (PT PII), Lembaga Penjaminan, Program Penjaminan Polis, menunjukkan betapa pentingnya pranata jaminan ini dalam berbagai aktivitas, khususnya ekonomi dan bisnis. Dalam praktik, jenis dan objek jaminan pun mengalami perkembangan. Berlakunya Undang-undang No : 9 Tahun 2011 tentang Perubahan Atas UU No : 9 Tahun 2006 tentang Sistem Resi Gudang memperkaya jenis jaminan kebendaan yang sudah ada dan instrumen surat berharga sebagai objek jaminan. Di tataran praktis, objek jaminan berkembang sesuai dengan kebutuhan masyarakat, sehingga ditemukan penggunaan Hak sewa, Surat Perintah Kerja, SK Pengangkatan, *Delivery Order*, *Cover Note* bahkan Perjanjian Pengikatan Jual Beli sebagai objek jaminan, yang disepakati oleh para pihak. Tulisan ini bermaksud mengkaji perkembangan lembaga dan objek jaminan tersebut dalam perspektif hukum jaminan, dan bertujuan untuk menghasilkan kajian hukum jaminan yang dapat digunakan untuk menggagas pembaruan hukum jaminan nasional. Berdasarkan hasil kajian dengan menggunakan pendekatan yuridis normatif, diperoleh hasil bahwa perkembangan lembaga dan objek jaminan, baik yang diatur dalam peraturan perundang-undangan maupun yang ditemukan dalam praktik menunjukkan urgensi jaminan dalam berbagai aktivitas, khususnya ekonomi bisnis, dan memperkaya khasanah hukum jaminan di Indonesia. Namun demikian, perkembangan lembaga dan objek jaminan tersebut belum sepenuhnya masuk ke dalam sistem hukum jaminan, sehingga memerlukan landasan hukum bagi eksistensinya. Berdasarkan hasil kajian, kehadiran hukum jaminan yang bersifat nasional diperlukan sebagai landasan hukum untuk memberikan jaminan kepastian dan perlindungan hukum bagi para pihak.

Kata kunci: perkembangan jaminan – hukum jaminan nasional