

## **ABSTRACT**

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### **LEGAL ASPECT OF THE UNREGISTERED TRANSFER OF MORTGAGE BY THE NEW CREDITOR IN THE IMPLEMENTATION OF SECONDARY MORTGAGE FACILITY**

(xv + 106 pages; 5 attachments)

Secondary Mortgage Facility is very important to maintain the asset liquidity of Origin Creditor as the lender in the Housing Credit Facility. The formulation of the problem in this research are how is the development of the regulation and the implementation of Secondary Mortgage Facility in Indonesia and also what is the legal consequences of the unregistered transfer of mortgage by the new creditor in the implementation of Secondary Mortgage Facility. The research method in this research is normative juridical with secondary data and analyzed by using the descriptive-qualitative method. Based on the result of research, the development of the regulation regarding on Secondary Mortgage Facility in Indonesia starts from the issuance of Minister of Finance Decree Number 132/KMK.014/1998 which regulated about Mortgage Company until its replaced by Presidential Regulation Number 19 Year 2005 with its amendments which regulated about the mechanism of Secondary Mortgage Facility in Indonesia. It is inseparable from the Government's concern to increase the distributor capacity of Housing Credit Facility in Indonesia. The implementation of Secondary Mortgage Facility in Indonesia is by doing securitization or giving the loan facilities. The legal consequences of the unregistered transfer of mortgage by the new creditor in the implementation of Secondary Mortgage Facility is the transfer of mortgage is not binding to the third party and it will be considered as never happen. But in the practice field, to accommodate that provision PT SMF as the Issuer of Asset-Backed Securities and the Origin Creditor will make a Cooperation Agreement that contains a clause that if the default occurs and it needs Mortgage execution, then the Origin Creditor will execute the mortgage on behalf of the investors according to that Housing Credit Facility agreement between the Origin Creditor and debtor. The Origin Creditor will share the result of mortgage execution to the investors.

Keywords: Secondary Mortgage Facility, Securitization, Mortgage

References: 60 (1989 - 2018)