

ABSTRACT

Shania Khesly (01051180225)

JURIDICAL OVERVIEW OF THE QUORUM REQUIREMENT REGARDING THE VOTING FOR PERMANENT SUSPENSION OF PAYMENT (PKPU) BASED ON INDONESIAN BANKRUPTCY LAW

(xiii + 97 pages: 1 attachment)

Suspension of Payment (PKPU) is one of the stages to avoid Bankruptcy as Debtor is given a period of 45 days in Temporary PKPU and 270 days in Permanent PKPU to reorganize or restructure the debts before stated as Bankrupt, as well as providing an amicable settlement to Creditors to achieve homologation. Regarding the need to prolong the period of Permanent PKPU, Debtor must acquire a certain voting agreement from the Creditors for the extension to be granted as stipulated in Article 229 paragraph (1) of Indonesian Law No. 37 of 2004 (Bankruptcy and PKPU Law). In order to attain the voting quorum, the approval of Secured and Concurrent/Unsecured Creditors each must reach half the total of present creditors and represent at least two-thirds of all Debtor's debts. However, in some cases the required voting quorum for the prolongation of Permanent PKPU period is not fulfilled and can even be granted by the Judges in Commercial Court with the consideration that Debtor must be given the opportunity to conduct his business, while the interests of Creditors are not considered. In fact, the implementation of Bankruptcy and PKPU Law is absolute and must be obeyed by the Citizens in Republic of Indonesia and therefore if the voting requirements is not attained then Debtor should be declared as Bankrupt as stipulated in Article 230 paragraph (1) Bankruptcy and PKPU Law. Judges is obliged to decide cases based on applied regulations in Indonesia and not solely on the principle of business continuity.

References : 34 (1996-2021)

Key Words : Suspension of Payment, Voting Quorum, Bankruptcy Law