

ABSTRAK

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PERLINDUNGAN HUKUM BAGI KREDITOR BANK ATAS JAMINAN ASET PIHAK KETIGA YANG DIJADIKAN *BOEDEL* PAILIT DALAM KEPAILITAN DEBITOR

Tesis ini mengkaji perlindungan hukum bagi kreditor bank atas jaminan aset pihak ketiga yang dijadikan *boedel* pailit dalam kepailitan debitor. Penelitian ini menganalisis konsep dan batasan *boedel* pailit dalam hukum kepailitan Indonesia serta perlindungan hukum terhadap kreditor separatis, khususnya perbankan, dalam kaitannya dengan aset jaminan milik pihak ketiga. Berdasarkan ketentuan Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang (UUK-PKPU), *boedel* pailit mencakup seluruh kekayaan sah milik debitor pada saat pernyataan pailit diucapkan, yang berada dalam sita umum dan diverifikasi oleh kurator serta hakim pengawas. Namun, dalam praktiknya, timbul permasalahan ketika kurator memasukkan aset milik pihak ketiga yang dijadikan jaminan ke dalam *boedel* pailit. Hal ini menimbulkan potensi pelanggaran terhadap hak keperdataan pihak ketiga dan risiko kerugian bagi kreditor bank. Hasil dari penelitian ini yaitu diperlukan penguatan dokumen jaminan, kejelasan perjanjian, dan verifikasi kepemilikan yang sah dalam proses pengikatan jaminan kreditor bank dan debitornya. Selain itu, kreditor bank dapat melakukan upaya hukum berupa Gugatan Lain-Lain ke pengadilan niaga untuk mempertahankan hak eksekusi atas jaminan tersebut sehingga aset pihak ketiga tersebut dapat dikeluarkan/tidak dimasukan dalam *boedel* pailit debitor. Penelitian ini menggunakan penelitian normatif dengan pendekatan perundang-undangan dengan menekankan pentingnya kepastian hukum, perlindungan hukum kreditor bank, dan integritas sistem kepailitan melalui kebijakan hukum yang adil dan proporsional.

Kata Kunci: Kreditor Bank, Jaminan Aset Pihak Ketiga, *Boedel* Pailit, Kepailitan

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LEGAL PROTECTION FOR BANK CREDITORS ON THIRD PARTY ASSET COLLATERAL USED AS BANKRUPTCY ESTATE IN DEBTOR'S BANKRUPTCY.

This thesis examines the legal protection for bank creditors over third-party asset collateral that is used as a bankruptcy estate in the debtor's bankruptcy. This research analyzes the concept and limitations of the bankruptcy estate in Indonesian bankruptcy law as well as the legal protection of secessionist creditors, especially banks, in relation to collateral assets belonging to third parties. Based on the provisions of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (UUK-PKPU), the bankruptcy estate includes all legal assets belonging to the debtor at the time the bankruptcy declaration is pronounced, which are under general confiscation and verified by the curator and supervisory judge. However, in practice, problems arise when the curator includes assets belonging to third parties that are used as collateral into the bankruptcy estate. This creates a potential violation of the third party's civil rights and the risk of loss for the bank's creditors. The result of this research is the need to strengthen collateral documents, clarity of agreements, and verification of legal ownership in the process of binding collateral for bank creditors and their debtors. In addition, bank creditors can take legal action in the form of another lawsuit to the commercial court to maintain the right to execute the collateral so that the third-party assets can be excluded/not included in the debtor's bankruptcy estate. This research uses normative research with a statutory approach by emphasizing the importance of legal certainty, legal protection of bank creditors, and the integrity of the bankruptcy system through fair and proportional legal policies.

Keywords: Bank Creditor, Third Party Asset Guarantee, Bankruptcy Estate, Insolvency