

**KEPASTIAN HUKUM FIDUSIA ULANG TERHADAP OBJEK  
JAMINAN FIDUSIA TANPA PENGHAPUSAN DARI BUKU  
DAFTAR FIDUSIA**

Tesis

*Diajukan sebagai Persyaratan untuk mendapatkan Gelar Magister Kenotariatan di*



- 1. Dr. Dahlil Marjon, S.H., M.H.**
- 2. Dr. Beatrix Benni, S.H., M.Pd, M.Kn.**

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## **KEPASTIAN HUKUM FIDUSIA ULANG TERHADAP OBJEK JAMINAN FIDUSIA TANPA PENGHAPUSAN DARI BUKU DAFTAR FIDUSIA**

**Hermadiyansyah Putra, Program Magister Kenotariatan Fakultas Hukum Universitas Andalas, Tesis, 2022, Dosen Pembimbing I: Dr. Dahlil Marjon, S.H., M.H., Dosen Pembimbing II: Dr. Beatrix Benni, S.H., M.Pd., M.Kn.**

### **ABSTRAK**

Dalam Pasal 25 ayat (1) huruf (a) Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia dijelaskan bahwa Jaminan Fidusia hapus karena hapusnya utang yang dijamin dengan fidusia. Kemudian pada ayat (3) dijelaskan bahwa penerima fidusia memberitahukan kepada Kantor Pendaftaran Fidusia mengenai hapusnya Jaminan Fidusia. Artinya disini bahwa ketika hutang debitur telah hapus atau lunas maka penerima fidusia memberitahukan kepada Kantor Pendaftaran Fidusia bahwa Jaminan Fidusia tersebut untuk dihapus. Kantor Pendaftaran Fidusia akan menghapus pencatatan Jaminan Fidusia tersebut dari Buku Daftar Fidusia. Dengan dilakukannya penghapusan ini maka benda atau kekayaan debitur tersebut tidak terikat lagi sebagai jaminan pada Bank. Melihat kepada hapusnya jaminan fidusia, ketika suatu objek jaminan yang telah terdaftar sebelumnya dan tidak dilakukan penghapusan karena pembiayaan atau kredit lunas, kemudian diikat lagi sebagai jaminan, ini akan bermuara terjadinya fidusia ulang. Rumusan masalah dalam tesis ini adalah; 1) Bagaimanakah ketentuan hukum dan kepastian hukum penghapusan jaminan fidusia berdasarkan UUJF dan Peraturan-peraturan pelaksanaannya? 2) Bagaimanakah tanggung jawab hukum penerima fidusia terhadap penghapusan jaminan fidusia guna terwujudnya larangan fidusia ulang?. Penelitian ini adalah penelitian Hukum Yuridis Normatif. Hasil dari penelitian ini adalah; 1) Ketentuan-ketentuan hukum tentang jaminan fidusia khususnya penghapusan jaminan fidusia yang tertuang dalam UUJF dan Peraturan-peraturan Pelaksanaannya belum terdapat kepastian hukum penghapusan jaminan fidusia sehingga membuka peluang terjadinya fidusia ulang. 2) Kewajiban penghapusan jaminan fidusia yang telah hapus merupakan kewajiban bagi penerima fidusia atau kreditur. Kewajiban penghapusan jaminan fidusia tersebut merupakan bentuk tanggung jawab hukum penerima fidusia. Tanggung jawab hukum tersebut dilakukan guna mencapai tertib administrasi pada kantor pendaftaran jaminan fidusia, dan juga untuk mengembalikan hak-hak pemberi fidusia atas benda yang dijadikan objek jaminan fidusia.

**Kata Kunci ; Fidusia, Jaminan Fidusia, Fidusia Ulang, Penghapusan Fidusia**

# **REPEAT FIDUCIARY LEGAL ASSURANCE ON THE OBJECT OF FIDUCIARY GUARANTEE WITHOUT DELETION FROM THE FIDUCIARY LIST BOOK**

**Hermadiyansyah Putra, Masters Program in Notary Law Faculty of Law Andalas University, Thesis, 2022, Supervisor I: Dr. Dahlil Marjon, S.H., M.H., Supervisor II: Dr. Beatrix Benni, S.H., M.Pd., M.Kn.**

## **ABSTRACT**

In Article 25 paragraph (1) letter (a) of Law Number 42 of 1999 concerning Fiduciary Guarantee it is explained that the Fiduciary Guarantee is canceled because the debt is guaranteed by the fiduciary. Then in paragraph (3) it is explained that the fiduciary recipient notifies the Fiduciary Registration Office regarding the cancellation of the Fiduciary Guarantee. This means that when the debtor's debt has been written off or paid off, the fiduciary recipient will notify the Fiduciary Registration Office that the Fiduciary Guarantee is to be deleted. The Fiduciary Registration Office will delete the recording of the Fiduciary Guarantee from the Fiduciary Registry Book. With this write-off, the debtor's assets or assets are no longer bound as collateral to the Bank. Looking at the abolition of a fiduciary guarantee, when an object of collateral that has been previously registered and is not deleted due to financing or credit in full, is then tied up again as collateral, this will lead to a re-fiduciary. The formulation of the problem in this thesis is; 1) What are the legal provisions and legal certainty for the abolition of fiduciary guarantees based on UUJF and its implementing regulations? 2) What is the legal responsibility of the fiduciary recipient for the abolition of the fiduciary guarantee in order to realize the re-fiduciary prohibition?. This research is a normative juridical law research. The results of this study are; 1) The legal provisions regarding fiduciary guarantees, especially the abolition of fiduciary guarantees contained in the UUJF and its Implementing Regulations, have not yet provided legal certainty for the abolition of fiduciary guarantees, thus opening up opportunities for re-fiduciaries to occur. 2) The obligation to abolish fiduciary guarantees that have been canceled is an obligation for the fiduciary recipient or creditor. The obligation to abolish the fiduciary guarantee is a form of legal responsibility for the fiduciary recipient. The legal responsibility is carried out in order to achieve administrative order at the fiduciary guarantee registration office, and also to restore the rights of the fiduciary giver to the object that is the object of the fiduciary guarantee.

**Keywords ; Fiduciary, Fiduciary Guarantee, Re-Fiduciary, Fiduciary Removal**