

PERANAN NOTARIS DALAM PEMBERIAN JAMINAN DENGAN AKAD KAFALAH (BANK GARANSI) DI PT. BANK SYARIAH MANDIRI CABANG SOLO

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INTISARI

Penelitian ini bertujuan untuk mengetahui peranan Notaris dalam pemberian jaminan dengan akad *kafalah* (bank garansi) di PT. Bank Syariah Mandiri Cabang Solo serta kendala dalam pemberian jaminan dengan akad *kafalah* (bank garansi) di PT. Bank Syariah Mandiri Cabang Solo. Penelitian ini didasarkan pada penelitian lapangan guna memperoleh data primer dalam bidang hukum perdata secara umum dan perjanjian secara khusus, hukum jaminan dan hukum perbankan dan melengkapinya juga dilakukan penelitian kepustakaan. Data yang diperoleh dari penelitian lapangan dan penelitian kepustakaan akan dianalisis secara kualitatif untuk kemudian disusun secara sistematis.

Penelitian mengenai peranan Notaris dalam pemberian jaminan dengan akad *kafalah* (bank garansi) di PT. Bank Syariah Mandiri Cabang Solo adalah suatu penelitian hukum yang bersifat yuridis empiris yang mencakup penelitian terhadap asas-asas hukum, perbandingan hukum, unsur-unsur dan faktor-faktor yang berhubungan dengan peranan Notaris dalam pemberian jaminan dengan akad *kafalah*.

Pada hakikatnya peranan Notaris dalam pemberian jaminan dengan akad *kafalah* (bank garansi) di PT. Bank Syariah Mandiri Cabang Solo sangat penting terkait dalam pembuatan akta akad *kafalah*, yang selanjutnya akan ditindak lanjuti oleh pihak bank dengan pembuatan akad pembiayaan. Kendala-kendala yang dihadapi dalam pemberian jaminan dengan akad *kafalah* dapat bersumber dari pihak bank yakni sumber daya manusia dan prosedur pemberian jaminan, dari pihak nasabah yakni perubahan kondisi ekonomi dan objek jaminan, dari pihak ketiga berupa pemahaman akan prosedur pemberiannya, dan dari pihak Notaris berupa kecermatan mendalam untuk menuangkannya dalam perjanjian tertulis yaitu minuta akta Notaris.

Kata Kunci: Notaris, Jaminan, Akad *Kafalah*.

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**ROLE OF NOTARY IN THE DISPOSAL PROVISION OF GUARANTEES
WITH KAFALAH (BANK GUARANTEES) CONTRACT AT PT. BANK
SYARIAH MANDIRI SOLO BRANCH**

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ABSTRACT

This research intends to find out the role of notary in the disposal provision of guarantees with *kafalah* (bank guarantees) contract at PT. Bank Syariah Mandiri Solo Branch as well as its constraint in that of disposal provision of guarantees with *kafalah* contract at PT. Bank Syariah Mandiri Solo Branch. This research is based on a field investigation in order to compile primary data required in the area of civil law in general and agreement in particular, law of guarantees and banking and completing it with literary investigation. The data compiled from both field and literary investigations will be analyze as qualitative and later formulated systematically.

The research on the role of notary in the disposal provision of guarantees with *kafalah* (bank guarantees) contract at PT. Bank Syariah Mandiri Solo Branch is a juristic law of investigation with namely juridical and empirical characteristics involving research toward law principles, law comparison, elements and factors correlated to the notary's role in the provision of guarantees with *kafalah* contract.

The role of notary in the disposal provision of guarantees with *kafalah* (bank guarantees) contract at PT. Bank Syariah Mandiri Solo Branch is naturally considered as very important on its correlation with disposal provision of *kafalah* contract certificate which is later followed up by bank. Hence, the bank implements financing provision certificate of agreement. Constraints that are showed up to be faced of by the disposal of guarantees by *kafalah* contract may be sourced from four parties. Those four sources are first coming from the bank which is human resources and procedure of disposal guarantee. Second, from client which is economic condition changes and object of guaranty. Third, coming from the third party which is the comprehension on its guaranty disposal, and the fourth is coming from the notary which is formed as deep accuracy to mold it within officially letter of intent called Notary certificate.

Keyword: Notary, Guarantees, *Kafalah*.

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