

[Unofficial translation]

THE FIDUCIARY SECURITY ACT
LAW NUMBER 42 OF 1999
OF THE REPUBLIC OF INDONESIA

BY THE GRACE OF GOD ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Whereas:

- a. the business world's great and ever-increasing need for the availability of funds needs to be balanced by clear and complete provisions of law governing security;
- b. Fiduciary Security as a form of security is still based on judicial precedents and as yet not completely and comprehensively regulated by statute;
- c. to fulfil the need for law which can better trigger national development and to underwrite legal certainty and give legal protection for the parties concerned, it is necessary to formulate complete provisions regarding Fiduciary Security and such security needs to be registered in a Fiduciary Registration Office;
- d. given the considerations in points a, b, and c, it is deemed necessary to formulate a Fiduciary Security Act.

In view of:

Article 5 paragraph (1), Article 20 paragraph (1), and Article 33 of the 1945 Constitution.

With the approval of

THE PEOPLE'S REPRESENTATIVE COUNCIL OF THE REPUBLIC OF
INDONESIA

HAS DECIDED

to promulgate: THE FIDUCIARY SECURITY ACT

GENERAL ELUCIDATION

1. *Economic development, as part of national development, is an attempt to achieve a fair and prosperous society based on Pancasila and the 1945 Constitution. In order to maintain and continue development uninterrupted, the agents of development, both the government and society, individuals and legal entities, need funds on a large scale. In line with the increase in development activities, and bearing in mind the needs for funding, most of the funds necessary for meeting these needs are obtained through borrowing and lending.*
2. *To date, borrowing and lending which makes use of liens or security rights has been governed by the Mortgage Act (Law No. 4 of 1996) which is an implementation of Article 51 of the Basic Agrarian Act (Law No. 45 of 1960) and also a replacement of the institutions of Hypothecation of Land and credietverband. Additionally, other security rights which have been made much use of recently are Pledges, Non-Land Hypothecations, and Fiduciary Security. The statute relevant to Fiduciary Security is Article 15 of the Housing and Dwellings Act (Law No. 4 of 1992) which provided that houses built on land owned by another party could be encumbered with Fiduciary Security. Apart from that, the Condominiums Act (Law No. 16 of 1985) provides for the ownership right (hak milik) over a condominium unit being made security for a debt by being encumbered by fiduciary, if the land is land subject to right of use (hak pakai) over state land.*

Fiduciary Security has been used in Indonesia since the Dutch occupation as a form of security created by judicial precedent. This form of security has been widely used in transactions of borrowing and lending because the encumbrance process is considered to be simple, easy, and quick, but it does not guarantee that there is legal certainty.

The institution of Fiduciary Security makes it possible for the Grantor of Fiduciary to possess the Chattel used as security, while doing business funded by loans making use of Fiduciary Security. Originally Collateral was limited to moveable tangible assets in the form of equipment but with further developments came to include moveable intangible assets and immoveable assets.

3. *This Act is intended to accommodate the needs of society for the regulation of Fiduciary Security as a means of assisting business and to give legal certainty to the relevant parties.*

As has already been explained, Fiduciary Security gives convenience to the parties making use of it, particularly the Grantor of Fiduciary. On the other hand, however, because Fiduciary Securities are not registered there is less security for the interests of the party receiving the fiduciary. The Grantor of Fiduciary could use the chattels encumbered with fiduciary as security for another party without the knowledge of the Receiver of Fiduciary.

Before this Act was formulated, Collateral was generally moveable chattels consisting of inventory, trade goods, receivables, machinery, and motor vehicles. Therefore, in order to meet the needs of society, which are continuing to develop, the definition under this Act of objects of Fiduciary Security is very wide, viz., tangible and intangible moveable chattels and immoveable chattels which cannot be encumbered by a mortgage as provided in the Mortgage Act (Law No. 4 of 1996).

In this Act, the registration of Fiduciary Security is provided for in order to give legal certainty to the parties concerned and registration of the Fiduciary Security gives the Receiver of Fiduciary a preferential right over other creditors. Because Fiduciary Security entitles the Grantor of Fiduciary to still possess the Collateral on the basis of trust, it is hoped that the registration system provided for in this Act will give security to the Receiver of Fiduciary and the parties having an interest in the Chattels concerned.

CHAPTER I GENERAL PROVISIONS

Article 1

In this Act:

1. Fiduciary means the assignment of the right of ownership of a chattel on a basis of trust with the proviso that the chattel whose right of ownership has been so assigned remains in the possession of the owner of the chattel.
2. Fiduciary Security means the security interest over a tangible or intangible moveable chattel or an immoveable chattel, specifically, a building which cannot be encumbered with a mortgage as contemplated in the Mortgage Act (Law No. 4 of 1996), which remains in the possession of the Grantor of Fiduciary as collateral for the payment of a particular debt, which interest gives the Receiver of Fiduciary a preferential position over other creditors.
3. Receivable means the right to receive payment.
4. Chattel means anything which can be owned and assigned, whether it is tangible or intangible, registered or unregistered, moveable or immoveable, and which cannot be encumbered with a mortgage or hypothecation.
5. The Grantor of Fiduciary means the individual or corporate owner of the Collateral.
6. The Receiver of Fiduciary means the individual or corporate holder of the receivable, payment of which is secured by the Fiduciary Security.
7. Debt means an direct or contingent obligation which is expressed or which can be expressed in monetary terms, whether in Indonesian currency or in some other currency.
8. Creditor means the party holding a receivable because of a contract or statute.

9. Debtor means the party indebted because of a contract or statute.

10. Person means an individual or a corporation.

Elucidation of Article 1

Sufficiently Clear

CHAPTER II

SCOPE

Article 2

This Act applies to any contract which is intended to encumber a Chattel with a Fiduciary Security.

Elucidation of Article 2

Sufficiently Clear

Article 3

This Act does not apply to:

- a. Mortgages related to land and buildings so long as the prevailing statutes determine that the security over the goods must be registered;
- b. Hypothecations over ships registered with a gross tonnage of twenty (20) m³ or more;
- c. Hypothecations of aircraft; and
- d. Pledges.

Elucidation of Article 3

Item a

Under this provision, buildings on land belonging to another person which, under the Mortgage Act (Law No. 4 of 1996) cannot be encumbered with a mortgage, may be made an object of Fiduciary Security.

Item b
Sufficiently Clear

Item c
Sufficiently Clear

Item d
Sufficiently Clear

CHAPTER III ENCUMBRANCE, REGISTRATION, ASSIGNMENT, AND REDEMPTION OF FIDUCIARY SECURITY

First Part Encumbrance with Fiduciary Security

Article 4

Fiduciary Security constitutes an accessory to a primary contract which gives rise to an obligation on the parties to perform something.

Elucidation of Article 4

In this provision "perform" means the giving of something, doing of something, or refraining from doing of something which can be valued in money.

Article 5

- (1) Encumbrance of a Chattel with Fiduciary Security shall be by a notarial deed which is in the Indonesian language and constitutes a deed of Fiduciary Security.
- (2) The size of the fee to be charged for the making of the deed of Fiduciary Security as contemplated in paragraph (1) shall be further provided for in a Government Regulation.

Elucidation of Article 5

Paragraph (1)

The deed of Fiduciary Security, in addition to setting out the day and date, shall also set out the time the deed was made.

Paragraph (2)

Sufficiently Clear

Article 6

The deed of Fiduciary Security contemplated in Article 5 shall contain at least:

- a. the identities of the Grantor and Receiver of Fiduciary;
- b. data of the primary agreement secured by the fiduciary;
- c. description of the Collateral;
- d. the secured value; and
- e. the value of the Collateral.

Elucidation of Article 6

Item a

In this Article "Identities" includes the full name, religion, residence or domicile, date and place of birth, sex, marital status, and occupation.

Item b

"Data of the primary agreement" means the type of agreement and the debt secured with the fiduciary.

Item c

The Collateral is adequately described by identifying it and detailing any documentary evidence of ownership.

If the Collateral is inventory which is always changing and/or is not fixed, such as stock of raw material or ready-made goods, or a portfolio of shares, then the deed of Fiduciary Security must give the details of the type, trademark, and quality of the Collateral.

Item d

Sufficiently Clear

Item e

Sufficiently Clear

Article 7

The debt, payment of which is secured by fiduciary, may take the form of:

- a. an existing debt;
- b. a debt arising at a later date, which has been contracted for at a certain amount; or
- c. a debt which can be determined on its execution based on the primary agreement which gave rise to the obligation to perform.

Elucidation of Article 7

Item a

Sufficiently Clear

Item b

A debt arising at a later date is known as a "contingent" debt, for example, a debt arising out of payment by a creditor in the interests of the debtor in implementing a bank guarantee.

Item c

In this provision, "debt" means interest owed on a primary agreement and other costs, the amount of which can be determined afterwards.

Article 8

A Fiduciary Security may be given to more than one Receiver of Fiduciary or to the authorisee or representative of the Receiver of Fiduciary.

Elucidation of Article 8

This provision is intended for grants of fiduciary to more than one Receiver of Fiduciary in the context of consortium credit funding.

“Authorisee” means a person who has received a specific authorisation from the Receiver of Fiduciary to represent its interests in receiving the Fiduciary Security from the Grantor of Fiduciary.

“Representative” means a person legally deemed to represent the Receiver of Fiduciary in receiving the Fiduciary Security, for example, a Trustee representing the interests of bondholders.

Article 9

- (1) A Fiduciary Security may be granted over one or more units or types of Chattel, including receivables, whether already existing at the time the security is given or acquired afterwards.
- (2) Encumbrance with security over Chattels or receivables acquired afterwards as contemplated in paragraph (1) does not need a separate security agreement.

Elucidation of Article 9

It is important to view the provisions in this Article from a commercial standpoint. These provisions explicitly permit a Fiduciary Security to cover Chattels acquired at a later date. This demonstrates that this Act guarantees flexibility in relation to the particulars of the Chattels which may be encumbered with a Fiduciary Security for the payment of a debt.

Article 10

Unless otherwise agreed:

- a. a Fiduciary Security includes profits from the Collateral.

- b. a Fiduciary Security includes insurance claims if the Collateral is insured.

Elucidation of Article 10

Item a

"Profits from the Collateral" means anything and everything obtained from the Collateral.

Item b

The provision in item b is intended to affirm that if the Chattel is insured, the Receiver of Fiduciary is entitled to any insurance claim.

Second Part
Registration of Fiduciary Security

Article 11

- (1) The Chattel encumbered with Fiduciary Security must be registered.
- (2) If the Chattel encumbered with Fiduciary Security is outside the territory of the Republic of Indonesia, the obligation contemplated in paragraph (1) still exists.

Elucidation of Article 11

Registration of the Chattel encumbered with Fiduciary Security shall be done at the domicile of the Grantor of Fiduciary, and the registration shall include the chattel, whether it is in or outside the territory of the Republic of Indonesia, in order to fulfil the principle of publicity and guarantee legal certainty for other creditors regarding the Chattel encumbered with Fiduciary Security.

Article 12

- (1) Registration of the Fiduciary Security contemplated in Article 11 paragraph (1) shall be done at the Fiduciary Registration Office.

- (2) Initially, a Fiduciary Registration Office shall be established in Jakarta with a work area covering the whole of the territory of the Republic of Indonesia.
- (3) The Fiduciary Registration Office contemplated in paragraph (2) shall come under the Department of Justice.
- (4) Provisions regarding the forming of Fiduciary Registration Offices in other areas and the determination of their work areas shall be made in Presidential Decrees.

Elucidation of Article 12

The Fiduciary Registration Office will be part of the Department of Justice and not a separate institution or technical implementation unit.

The Fiduciary Registration Office will initially be established in Jakarta and then in stages according to need in provincial capitals in whole of the territory of the Republic of Indonesia.

If a Fiduciary Registration Office has not been established in any Level II district, then the work area of the Fiduciary Registration Office in the provincial capital will cover the whole of the Level II districts within its territory.

Establishment of Fiduciary Registration Offices in Level II districts may be adapted to the Local Government Act (Law No. 22 of 1999).

Article 13

- (1) The application for registration of the Fiduciary Security shall be made by the Receiver of Fiduciary, its authorisee, or representative, enclosing a registration of Fiduciary Security declaration.
- (2) The registration declaration contemplated in paragraph (1) shall contain:
 - a. the identities of the Grantor and Receiver of Fiduciary;

- b. the date and number of the deed of Fiduciary Security, and the name and domicile of the notary who made the deed of Fiduciary Security;
 - c. data of the primary agreement secured by the fiduciary;
 - d. a description of the Collateral;
 - e. the secured value; and
 - f. the value of the Collateral.
- (3) The Fiduciary Registration Office shall record the Fiduciary Security in the Fiduciary Register on the same date as the date the application for registration was received.
- (4) Further provisions regarding procedures for registration of Fiduciary Security and registration fees shall be made by Government Regulation.

Elucidation of Article 13

Paragraph (1)

Sufficiently Clear

Paragraph (2)

Sufficiently Clear

Paragraph (3)

The purpose of this provision is so that the Fiduciary Registration Office will not judge the accuracy of what is set out in the Fiduciary Security Registration declaration but will only check the data contemplated in Article 13 paragraph (2).

Paragraph (4)

Sufficiently Clear

Article 14

- (1) The Fiduciary Registration Office shall issue and deliver to the Receiver of Fiduciary a Certificate of Fiduciary Security on the same date as the date the application for registration was received.
- (2) The Certificate of Fiduciary Security, which is a copy of the Fiduciary Register, shall contain the record of the matters contemplated in Article 13 paragraph (2).
- (3) The Fiduciary Security is created on the same date as the recording of the Fiduciary Security in the Fiduciary Register.

Elucidation of Article 14

Paragraph (1)
Sufficiently Clear

Paragraph (2)
Sufficiently Clear

Paragraph (3)
This provision is without prejudice to the effectiveness of Article 613 of the Civil Code on the assignment of registered receivables and other intangible assets.

Article 15

- (1) The Certificate of Fiduciary Security contemplated in Article 14 paragraph (1) shall contain the words "DEMI KEADILAN BERDASARKAN KETUHANAN YANG MAHA ESA". [*For the sake of Justice based on Belief in God Almighty*]
- (2) The Certificate of Fiduciary Security contemplated in paragraph (1) has the same executorial power as a court judgement which has absolute legal effect.
- (3) If the debtor defaults, the Receiver of Fiduciary is entitled to sell the Collateral on his own authority.

Elucidation of Article 15

Paragraph (1)

Sufficiently Clear

Paragraph (2)

In this provision, “executorial power” means it can be executed directly without going through the courts and is final and binding on the parties for the execution of the decision.

Paragraph (3)

One of the characteristics of Fiduciary Security is its ease of execution if the Grantor of Fiduciary defaults. For this reason it is deemed necessary in this Act to specifically provide for execution of Fiduciary Security through the institution of parate eksekusi.

Article 16

- (1) If there is any amendment of the particulars set out in the Certificate of Fiduciary Security contemplated in Article 14 paragraph (2), the Receiver of Fiduciary shall submit an application for registration of the amendment to the Fiduciary Registration Office.
- (2) The Fiduciary Registration Office shall, on the same date as the application for amendment is received, record the amendment in the Fiduciary Register and issue an Amendment Declaration, which will constitute an inseparable part of the Certificate of Fiduciary Security.

Elucidation of Article 16

Paragraph (1)

The parties must be informed of the amendment of the particulars set out in the Certificate of Fiduciary Security. For the sake of efficiency in meeting the needs of the business world, the amendment does not need to be made by notarial deed.

Paragraph (2)
Sufficiently Clear

Article 17

The Grantor of Fiduciary is prohibited from making another fiduciary on registered Collateral.

Elucidation of Article 17

It is not possible for a Grantor of Fiduciary, whether a debtor or guarantor of a third party, to make another fiduciary on Collateral because the right of ownership over the Chattel has passed to the Receiver of Fiduciary.

Article 18

All information on Collateral at the Fiduciary Registration Office shall be open to the public.

Elucidation of Article 18
Sufficiently Clear

Third Part Assignment of Fiduciary Security

Article 19

- (1) Assignment of rights over a receivable secured by fiduciary will cause the passing in law of all rights and obligations of the Receiver of Fiduciary to the new creditor.
- (2) The passing of Fiduciary Security contemplated in paragraph (1) shall be registered by the new creditor at the Fiduciary Registration Office.

Elucidation of Article 19

In this article the "assignment of rights over a receivable" is that known as "cessie", that is the assignment of a receivable by an authentic deed or an

unnotarised deed. By the cessie all rights and obligations of the old Receiver of Fiduciary pass to the new Receiver of Fiduciary and the Grantor of Fiduciary must be informed of the transfer of right over the receivable.

Article 20

The Fiduciary Security still follows the Collateral in whoever's hands the Chattel rests, except for assignment of inventory used as Collateral.

Elucidation of Article 20

This provision follows the principle of "droit de suite", which is part of Indonesian law in relation to rights in rem.

Article 21

- (1) The Grantor of Fiduciary may assign inventory used as Collateral in the fashion and by the procedures of normal business practice.
- (2) The provision contemplated in paragraph (1) shall not apply if there occurs any default by the debtor and/or third party Grantor of Fiduciary.
- (3) Collateral which has been assigned as contemplated in paragraph (1) must be replaced by the Grantor of Fiduciary with equivalent collateral.
- (4) If the Grantor of Fiduciary defaults, the proceeds from the assignment and/or the claim arising out of the assignment contemplated in paragraph (1) shall in law become a substitute for the assigned Collateral.

Elucidation of Article 21

This provision re-affirms that the Grantor of Fiduciary may assign inventory used as Collateral. Despite this, however, in order to protect the interests of the Receiver of Fiduciary, the assigned Chattels must be replaced with an equivalent.

"Assign" includes, among others, selling or renting out in the course of business.

"Equivalent" means not only equivalent in value but also the equivalent in type of collateral. "Default" means non-performance, whether under the basic agreement, the Fiduciary Security agreement, or other security agreements.

Article 22

A purchaser of collateral in the form of inventory shall be free from any claim even if the purchaser knew of the Fiduciary Security, provided that the purchaser paid the selling price of the Chattel in accordance with the market price.

Elucidation of Article 22

"Market price" means a reasonable price applicable in the market at the time of the sale of the Chattel, such that there is no impression of fraud on the part of the Grantor of Fiduciary in selling the Chattels.

Article 23

- (1) Without prejudice to the provisions contemplated in Article 21, if the Receiver of Fiduciary agrees that the Grantor of Fiduciary may use, combine, mix, or assign the Collateral or proceeds from the Collateral, or agrees to invoicing or compounding for receivables, then such agreement does not mean that the Receiver of Fiduciary has relinquished the Fiduciary Security.
- (2) The Grantor of Fiduciary is prohibited from assigning, pledging, or leasing to any other party non-inventory Collateral, except with the prior written consent of the Receiver of Fiduciary.

Elucidation of Article 23

Paragraph (1)

"Combine" means the uniting of different parts of the Collateral.

"Mix" means the uniting of corresponding Chattels with the Collateral.

Paragraph (2)

“Non-inventory Collateral” means, for example, production machinery, private cars, or private homes which are used as Collateral.

Article 24

The Receiver of Fiduciary does not undertake any obligation for the consequences of the actions or negligence of the Grantor of Fiduciary whether arising from a contractual relationship or arising from unlawful acts in connection with the use and transfer of the Collateral.

Elucidation of Article 24

Sufficiently Clear

Fourth Part

Redemption of Fiduciary Security

Article 25

- (1) A Fiduciary Security will be redeemed for the following reasons:
 - a. redemption of the debt guaranteed by the fiduciary;
 - b. release of the right over the Fiduciary Security by the Receiver of Fiduciary; or
 - c. destruction of the Collateral.
- (2) The destruction of the Collateral will not redeem the insurance claim contemplated in Article 10 b.
- (3) The Receiver of Fiduciary shall inform the Fiduciary Registration Office of the redemption of the Fiduciary Security contemplated in paragraph (1) enclosing a declaration of redemption of debt, release of right, or destruction of Collateral.

Elucidation of Article 25

Paragraph (1)

In accordance with the accessory nature of Fiduciary Security, the existence of the Fiduciary Security depends on the existence of the receivable payment of which is guaranteed. If the receivable is redeemed by the redemption of the debt or by release, then the Fiduciary Security concerned will automatically be redeemed.

"Redemption of debt" includes its being paid off and the evidence of the redemption of debt takes the form of a declaration made by the creditor.

Paragraph (2)

If the Collateral is destroyed and was insured, the insurance claim will become a substitute for the Collateral.

Paragraph (3)

Sufficiently Clear

Article 26

- (1) With the redemption of the Fiduciary Security as contemplated in Article 25, the Fiduciary Registration Office shall delete the record of the Fiduciary Security from the Fiduciary Register.
- (2) The Fiduciary Registration Office shall issue a declaration that the Certificate of Fiduciary Security is no longer valid.

Elucidation of Article 26

Sufficiently Clear

CHAPTER IV
PREFERENTIAL RIGHTS

Article 27

- (1) The Receiver of Fiduciary has a preferential right over other creditors.

- (2) The preferential right contemplated in paragraph (1) is the right of the Receiver of Fiduciary to take the payment of its receivable from the proceeds from foreclosure on the Collateral.
- (3) The Receiver of Fiduciary's preferential right is not lost because of the bankruptcy or liquidation of the Grantor of Fiduciary.

Elucidation of Article 27

Paragraph (1)

The preferential right is calculated from the date of registration of the Collateral at the Fiduciary Registration Office.

Paragraph (2)

Sufficiently Clear

Paragraph (3)

The provision in this paragraph is related to the provision that the Fiduciary Security constitutes a security interest in a chattel for the payment of a debt. In addition, the provisions of the Bankruptcy Act determine that Collateral is outside the bankrupt or liquidated estate.

Article 28

If the same Chattel becomes Collateral for more than one (1) Fiduciary Security agreement, the preferential right contemplated in Article 27 shall be given to the party which first registers at the Fiduciary Registration Office.

Elucidation of Article 28

Sufficiently Clear

CHAPTER V
EXECUTION OF FIDUCIARY SECURITY

Article 29

- (1) If the debtor or Grantor of Fiduciary defaults, the Collateral may be executed by:
 - a. the Receiver of Fiduciary implementing the executorial title contemplated in Article 15 paragraph (2);
 - b. the sale of the Collateral on the Receiver of Fiduciary's own authority through public auction and the taking of payment of the receivable from the proceeds of the sale;
 - c. unnotarised sale based on an agreement between the Grantor and Receiver of Fiduciary if a higher price profitable to the parties can be thus obtained.
- (2) The sale contemplated in paragraph (1) c shall be carried out after the lapse of one (1) month from written notification being given to interested parties by the Grantor and/or Receiver of Fiduciary and its publication in at least two (2) newspapers circulated in the area concerned.

Elucidation of Article 29
Sufficiently Clear

Article 30

The Grantor of Fiduciary shall surrender the Collateral for implementation of execution of the Fiduciary Security.

Elucidation of Article 30

If the Grantor of Fiduciary does not surrender the Collateral at the time of execution, the Receiver of Fiduciary is entitled to take the Collateral and if necessary may seek the assistance of the authorities.

Article 31

If the Collateral consists of trade goods or stock which can be sold in the market or stock exchange, it may be sold there in accordance with prevailing law.

Elucidation of Article 31
Sufficiently Clear

Article 32

Any covenant for execution against Collateral in a fashion which conflicts with the provisions contemplated in Articles 29 and 31 shall be void in law.

Elucidation of Article 32
Sufficiently Clear

Article 33

Any covenant giving the Receiver of Fiduciary authority to own the Collateral if the debtor defaults shall be void in law.

Elucidation of Article 33
Sufficiently Clear

Article 34

- (1) If the proceeds from the execution exceed the secured value, the Receiver of Fiduciary shall return the excess to the Grantor of Fiduciary.
- (2) If the proceeds from the execution are not sufficient to pay off the debt, the debtor shall remain liable for the unpaid debt.

Elucidation of Article 34
Sufficiently Clear

CHAPTER VI CRIMINAL PENALTIES

Article 35

Any person who intentionally falsifies, alters, omits, or in any other fashion gives misleading information, where if it was known by either party, that party would not have created the Fiduciary Security agreement, shall be sentenced to a term of imprisonment of at least one (1) year and at the most five (5) years and a fine of at least ten million rupiah (Rp. 10,000,000) and at the most one hundred million rupiah (Rp. 100,000,000).

Elucidation of Article 35
Sufficiently Clear

Article 36

A Grantor of Fiduciary who assigns, pledges, or leases Collateral as contemplated in Article 23 paragraph (2) without the prior written consent of the Receiver of Fiduciary shall be sentenced to a term of imprisonment of not more than two (2) years and a fine of not more than fifty million rupiah (Rp. 50,000,000).

Elucidation of Article 36
Sufficiently Clear

CHAPTER VII TRANSITIONAL PROVISIONS

Article 37

- (1) Encumbrances as Collateral existing before this Act comes into effect shall remain in effect as long as they do not conflict with this Act.
- (2) Within a period of no more than sixty (60) days as from the establishment of the Fiduciary Registration Office, all Fiduciary Security agreements must be adapted to the provisions in this Act, except for the provisions regarding the obligation to make a deed of Fiduciary Security contemplated in Article 5 paragraph (1).

- (3) If within the period contemplated in paragraph (2) there has been no adaptation, the Fiduciary Security agreement shall not constitute a security interest over chattels as defined by this Act.

Elucidation of Article 37

Paragraph (1)

Sufficiently Clear

Paragraph (2)

Sufficiently Clear

Paragraph (3)

Under the provisions of this paragraph Fiduciary Security agreements which are not registered will not have preferential right in or outside bankruptcy and/or liquidation.

Article 38

As long as they do not conflict with the provisions of this Act, all laws and regulations concerning fiduciary shall remain in effect until repealed, replaced, or renewed.

Elucidation of Article 38

Sufficiently Clear

CHAPTER VIII
CLOSING PROVISIONS

Article 39

The Fiduciary Registration Office contemplated in Article 12 paragraph (2) shall be formed within one (1) year of the enactment of this Act.

Elucidation of Article 39

Sufficiently Clear

Article 40

This Act shall be called the Fiduciary Act.

Elucidation of Article 40
Sufficiently Clear

Article 41

This Act shall come into effect on the date of its enactment.

Elucidation of Article 41
Sufficiently Clear

So that all persons may know of it, it is ordered that the enactment of this act be placed in the Statute Book of the Republic of Indonesia.

Ratified in Jakarta
on 30 September 1999

PRESIDENT OF THE REPUBLIC OF INDONESIA

[signed]

BACHARUDDIN JUSUF HABIBIE

Enacted in Jakarta
on 30 September 1999

MINISTER OF STATE FOR THE STATE SECRETARIAT
OF THE REPUBLIC OF INDONESIA

[signed]

MULADI

STATUTE BOOK OF THE REPUBLIC OF INDONESIA 1999 NO. 168