

Legal Certainty of Regulations on the Obligation to Notify the Minister Regarding Legal Status of Fiduciary Collateral

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ABSTRACT

The Fiduciary Guarantee aims to provide legal certainty for the parties involved; however, inconsistencies and ambiguities in its regulatory framework create contradictions regarding legal certainty. Law No. 42 of 1999, Government Regulation No. 21 of 2015, and Minister of Law and Human Rights Regulation No. 25 of 2021 fail to consistently regulate the obligation to remove fiduciary guarantees and do not provide legal certainty regarding the status of fiduciary objects if their removal is delayed beyond 14 days. This lack of clarity has the potential to harm the public, particularly fiduciary grantors who have fulfilled their obligations but face obstacles in the guarantee removal process. Furthermore, the incomplete regulation on fiduciary removal leads to legal uncertainty. This study examines the Juridical Implications of the Regulation on the "Obligation to Notify the Minister" concerning the validity of the legal status of fiduciary guarantee objects. Although the guarantee terminates upon full repayment of the debt in substance, the absence of an official notification results in the fiduciary object remaining an active guarantee in the system, creating legal uncertainty. This study employs the legal certainty theory and adopts a normative juridical approach combined with a statutory approach. The legal materials used include primary, secondary, and tertiary legal sources, collected through literature research and analyzed using grammatical, systematic, and extensive interpretation.

KEYWORDS: Fiduciary Guarantee, Minister, Legal Certainty.



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I. INTRODUCTION

In today's business landscape, nearly all commercial activities rely on financial institution services. Etymologically, the term "fiducia" originates from the Latin word *fiducie*, meaning "trust." Additionally, the concept is adapted from the Dutch term *Fiduciare Eigendom Overdracht*,

which translates to "the transfer of ownership rights based on trust" or the transfer of ownership of an asset as collateral for debt repayment.¹ Under this mechanism, the fiduciary recipient holds a priority right over other parties. In the realm of secured transactions, fiduciary collateral is a contractual agreement in which the fiduciary grantor transfers ownership rights over an asset to the fiduciary recipient based on the principle of trust.²

However, the pledged asset remains in the possession of the fiduciary grantor and can continue to be used in its operations. In practice, fiduciary collateral has evolved into one of the most widely used forms of collateral, particularly in credit transactions. This is due to its flexibility, allowing the fiduciary grantor to utilize the secured asset while the agreement remains in effect.³

According to Law No. 42 of 1999 on Fiduciary Collateral, fiduciary collateral is defined as the transfer of ownership rights over an asset based on trust, with the provision that the asset remains in the possession of the fiduciary grantor as collateral for the repayment of a specific debt. Fiduciary collateral addresses the limitations of traditional pledge laws, as it allows movable assets to serve as collateral while remaining under the control and use of the fiduciary grantor without losing their functional utility.⁴

Rachmadi Usman explains that fiduciary collateral grants a preferential position to the fiduciary recipient over other creditors, particularly in debt settlement in the event of default. The fiduciary recipient has the right to execute the security object without requiring judicial proceedings, provided that all fiduciary registration procedures and requirements have been correctly fulfilled by both parties.⁵

Moreover, the introduction of the "electronic fiduciary guarantee removal system" reinforces the role of fiduciary collateral not only in ensuring legal certainty for the parties involved but also in strengthening legal mechanisms and reducing potential disputes. Through electronic registration, fiduciary collateral is expected to enhance transparency and accountability in credit transactions while ensuring administrative order within the secured transactions system.

Law No. 42 of 1999 on Fiduciary Collateral defines fiduciary collateral as follows in Article 1(1):

"Fiduciary collateral is the transfer of ownership rights over an asset based on trust, with the provision that the asset, whose ownership rights have been transferred, remains under the control of its original owner."

¹ Dina Dayanti, Sufiarina, and Riana Wulandari Ananto, "Perlindungan Hukum Hak Kreditur Penerima Fidusia Akibat Peralihan Objek Jaminan Fidusia Oleh Debitur," *Causa: Jurnal Hukum Dan Kewarganegaraan* 2, no. 5 (2024): 61–73.

² Rachmadi Usman, *Hukum Kebendaan* (Jakarta: Raja Grafindo, 2011).

³ Rania Jasmindhia, "Pembebanan Jaminan Fidusia Atas Hak Kekayaan Intelektual," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 4, no. 5 (2024): 1419–27.

⁴ Ni Kadek Ratih Maheswari and Putu Aras Samsithawrati, "Pengaturan Kekayaan Intelektual Sebagai Jaminan Kredit Untuk Menunjang Ekonomi Kreatif: Perspektif Pendaftaran Karya Dan Valuasi," *Kertha Negara : Journal Ilmu Hukum* 12, no. 2 (2024): 144–58.

⁵ Usman, *Hukum Kebendaan*.

The aforementioned article also serves as the primary legal basis for regulating the procedures for fiduciary collateral implementation, covering aspects such as definition, object, registration obligations, and execution rights. Additionally, this law guarantees the fiduciary recipient's right to direct execution through a fiduciary certificate, which holds legal enforceability without requiring judicial proceedings.⁶

Furthermore, Government Regulation No. 21 of 2015 on the Procedures for Fiduciary Collateral Registration and the Costs of Fiduciary Deed Preparation introduced an electronic fiduciary registration system. This aims to enhance efficiency, transparency, and expedite the guarantee registration process. The regulation also mandates the notification and removal of fiduciary collateral upon debt repayment to maintain administrative order and prevent overlapping collateral claims.⁷ Meanwhile, Constitutional Court Decision No. 18/PUU-XVII/2019 provides additional protection for fiduciary grantors by tightening the requirements for unilateral execution by fiduciary recipients, thereby ensuring greater protection of the grantor's rights in the execution process.⁸

The Fiduciary Agreement is governed by the Fiduciary Law, which serves as a strong legal foundation for all involved parties. It aims to clarify rights and obligations; however, the implementation of fiduciary collateral in Indonesia faces several legal issues.⁹ One significant issue is the failure of fiduciary recipients to remove registered fiduciary objects upon debt settlement.¹⁰ Banks are among the entities that often engage in such practices, which may financial harm to fiduciary grantors and lead to the occurrence of multiple fiduciary claims.¹¹

According to Article 16 of Government Regulation No. 21 of 2015, every fiduciary recipient is required to remove fiduciary collateral by submitting a notification to the Minister within the stipulated period. This provision aims to ensure administrative order and prevent potential overlapping collateral claims following debt repayment.

Law No. 42 of 1999 also provides clarity regarding the rights and obligations of the parties involved, as well as a structured dispute resolution mechanism in the implementation of fiduciary collateral.¹² However, in practice, various legal issues arise. One such issue is the violation related to registered fiduciary objects that are not followed by a declaration of their removal by the fiduciary recipient, whether it be a bank, other financing institutions, or individuals.¹³

⁶ Chintya Agnisya Putri, Farris Nur Sanjaya, and Gunarto, "Efektivitas Pengecekan Sertifikat Terhadap Pencegahan Sengketa Tanah Dalam Proses Peralihan Hak Atas Tanah," *Jurnal Akta* 5, no. 1 (2018): 267–74.

⁷ Shelly Asrika Fazlia, Dwi Suryahartati, and Lili Naili Hidayah, "Penjaminan Fidusia Dengan Objek Hak Cipta," *Zaaken: Journal of Civil and Business Law* 3, no. 3 (2022): 392–411.

⁸ Abram Shekar Perdana and Sri Mulyani, "Hak Cipta Sebagai Objek Jaminan Fidusia Dalam Perjanjian Kredit Bank," *Jurnal Akta Notaris* 2, no. 1 (2023): 01–20.

⁹ Damella Chandra Gayatri, "Penerapan Cyber Notary Dalam Meningkatkan Keamanan Dan Kepercayaan Transaksi Elektronik," *Acten Journal Law Review* 1, no. 2 (2024): 144–56.

¹⁰ Naufal Muhammad Faaza and Abdullah Kelib, "Akibat Hukum Atas Hilangnya Jaminan Fidusia Dalam Hukum Positif Dan Hukum Islam," *Notarius* 16, no. 1 (2023): 571–86.

¹¹ Jasmindhia, "Pembebanan Jaminan Fidusia Atas Hak Kekayaan Intelektual."

¹² Dayanti, Sufiarina, and Ananto, "Perlindungan Hukum Hak Kreditur Penerima Fidusia Akibat Peralihan Objek Jaminan Fidusia Oleh Debitur," 2024.

¹³ Arie S. Hutagalung, *Analisa Yuridis Mengenai Pemberian Dan Pendaftaran Jaminan Fidusia* (Jakarta: FH UI Press, 2003).

The provisions on the removal of fiduciary collateral aim to ensure legal certainty and prevent overlapping use of collateral that has been settled, thereby maintaining an orderly and transparent fiduciary administration. Based on Article 25 of Law No. 42 of 1999 on Fiduciary collateral and Article 16 of Government Regulation No. 21 of 2015, it can be concluded that every fiduciary recipient is obliged to remove fiduciary collateral by notifying the Minister within the prescribed period.

To prevent potential future disputes, fiduciary recipients are also required to cancel the fiduciary registration at the Fiduciary Registration Office after the security has been removed. This step is crucial to ensure that no future conflicts arise regarding the rights and obligations stemming from fiduciary agreements.¹⁴

According to data from the Ministry of Law and Human Rights related to the organization PERBARINDO, which serves as a platform for Rural Banks (*Bank Perkreditan Rakyat* or BPR) as one of the legal subjects of fiduciary recipients, a total of 27,484,060 Fiduciary collateral certificates were registered between 2013 and 2016. However, as of 2024, 20,360,111 fiduciary securities have yet to be removed. This indicates that the fiduciary collateral removal process, which should be carried out by fiduciary recipients, has not been effectively implemented. Fiduciary recipients, particularly banks, which play a significant role in the fiduciary collateral system, have not fully complied with their obligations under the prevailing regulations.¹⁵

Fiduciary collateral is frequently utilized by banks as collateral for loans granted to customers. Therefore, it is crucial for banks, other financing institutions, and individuals as fiduciary recipients to fulfill their obligations regarding the removal of fiduciary collateral properly.¹⁶ They must also comprehend the regulations governing fiduciary collateral removal to prevent potential violations. The removal of fiduciary collateral is essential in ensuring legal certainty and avoiding legal consequences for fiduciary grantors.¹⁷

If a fiduciary collateral is not removed despite the full repayment of the debt, it may lead to disputes or administrative inconsistencies, such as overlapping collateral. A fiduciary grantor can only re-fiduciate an asset after the fiduciary collateral on that asset has been formally removed.¹⁸ The removal process signifies that the asset is no longer subject to fiduciary collateral and may be used as collateral for a new fiduciary agreement. If the asset is re-registered without undergoing the proper removal process, such an act constitutes re-fiduciary collateral. In this case, the fiduciary grantor may be subject to criminal sanctions.¹⁹

¹⁴ M. Fadli Ramadani and Dyah Ochtorina Susanti, "Pembagian Hak Waris Pada Asuransi Prudential Syariah Dalam Perspektif Hukum Kewarisan Islam," *Acten Journal Law Review* 1, no. 3 (2024): 219–30.

¹⁵ Made Bagus Satria Yudistira, "Pengaturan Hukum Sertifikat Hak Atas Merek Sebagai Jaminan Fidusia Dalam Proses Pengajuan Kredit Di Perbankan Berdasarkan Undang-Undang Nomor 20 Tahun 2016," *Udayana Master Law Journal* 6, no. 3 (2017): 310–22.

¹⁶ Farah Diana, M. Nur Rasyid, and Azhari, "Kajian Yuridis Pelaksanaan Penghapusan Jaminan Fidusia Secara Elektronik," *Syiah Kuala Law Journal* 1, no. 2 (2017): 37–52.

¹⁷ Teguh Rizkiawan, "Kekayaan Intelektual Sebagai Objek Jaminan Kredit Perbankan: Prospek Dan Kendala," *Lex Renaissance* 7, no. 4 (2022): 883–94.

¹⁸ Ferdiansyah Putra Manggala, "Dinamika Pembebanan Jaminan Fidusia Terkait Dengan Prinsip Spesialitas," *Jurnal Ilmu Kenotariatan* 4, no. 1 (2023): 78–88.

¹⁹ Alya Nuzulul Qurniasari and Budi Santoso, "Kekayaan Intelektual Sebagai Aset Bisnis Dan Jaminan Kredit Perbankan Di Era Ekonomi Kreatif," *Notarius* 16, no. 3 (2024): 1376–91.

Failure to fulfill this obligation prevents the fiduciary grantor from registering the asset again as fiduciary collateral. Thus, "fiduciary collateral removal" and the "obligation to notify the Minister" are crucial actions. This obligation is directly linked to the validity of the fiduciary collateral object, which should have legally ended but remains recorded due to the absence of a removal process.²⁰ The removal of fiduciary collateral, accompanied by the notification requirement to the Minister, should determine the validity of the fiduciary collateral object.²¹ This process is essential and must be executed, considering that the object's fiduciary status has effectively ended but remains formally recorded due to the failure to remove the fiduciary collateral.²²

Based on the aforementioned explanation, it can be concluded that fiduciary collateral should be deemed nullified when the debt is fully repaid, ownership rights are released, or the fiduciary collateral object is destroyed. However, additional regulations impose an obligation to notify the Minister regarding the removal of fiduciary collateral.²³ This requirement carries legal consequences if the notification is not made. It underscores the importance of complying with administrative procedures as stipulated by law to prevent potential disputes or legal issues in the future.

II. METHODOLOGY

This study falls within the category of normative juridical research, which essentially examines law as a system of norms or rules that apply within society. Juridical research involves studying legislation within an integrated legal system and analyzing unwritten legal values that develop in society.²⁴ The approaches used in this study include the statutory approach, which focuses on legal rules as the primary object of analysis, and the conceptual approach, which examines the meaning of terms used in legislation from a theoretical perspective.

The legal materials used in this research are classified into three categories. First, primary legal materials, which consist of newly established terminology related to relevant facts or legal concepts, such as statutory regulations. Second, secondary legal materials, including books written by legal scholars and academic journals. Third, tertiary legal materials, which support the explanation of both primary and secondary legal materials. These include dictionaries (such as Indonesian and English language dictionaries), legal dictionaries, and relevant internet sources related to the research topic.²⁵

²⁰ Komang Ari Febriani and I Made Sarjana, "Analisis Yuridis Kekayaan Intelektual Yang Dibebankan Sebagai Jaminan Fidusia Dari Perspektif Ekonomi Kreatif," *Ethics and Law Journal: Business and Notary* 2, no. 4 (2024): 2024–2988.

²¹ Ali Masykur Fathurrahman and Muhammad Sopiya, "Perbandingan Pemanfaatan Hak Cipta Sebagai Objek Jaminan Fidusia Di Negara Indonesia & Amerika Serikat," *Jurnal Surya Kencana Satu : Dinamika Masalah Hukum Dan Keadilan* 13, no. 2 (2022): 107–18.

²² Angelina Putri Suhartini and Dewa Gde Rudy, "Hak Cipta Sebagai Agunan Kredit Bank," *Udayana Master Law Journal* 10, no. 1 (2021): 91–103.

²³ Maheswari and Samsithawrati, "Pengaturan Kekayaan Intelektual Sebagai Jaminan Kredit Untuk Menunjang Ekonomi Kreatif: Perspektif Pendaftaran Karya Dan Valuasi."

²⁴ Aan Efendi and Dyah Othorina Susanti, *Penelitian Hukum (Legal Research)* (Jakarta: Sinar Grafika, 2018).

²⁵ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2007).

The legal material analysis technique involves systematic interpretation, grammatical interpretation, and extensive interpretation. Systematic interpretation examines legal issues by interpreting statutory provisions and linking them with other articles within the same regulation or with other relevant laws. Grammatical interpretation assesses the meaning of words and terms that are not commonly used in daily language, ensuring they align with general linguistic rules. This study includes terms such as fiduciary collateral, fiduciary object, and termination of fiduciary collateral, which are technical legal terms primarily used within legal discourse.

III. FIDUCIARY REGISTRATION AS A GUARANTEE OF LEGAL CERTAINTY

Fiduciary collateral is an important instrument in financing that provides legal protection to the fiduciary recipient while also offering flexibility to the fiduciary grantor. However, the implementation of administrative obligations, particularly the obligation to notify the Minister, is crucial for maintaining the legal status of the fiduciary collateral, both before and after the settlement of the debt.²⁶ The provision of notification to the Minister becomes essential to ensure legal certainty, transparency, and the protection of rights for the parties involved. Failure or delay in this notification could lead to potential losses and legal uncertainty.²⁷

The registration of Fiduciary collateral is conducted at the Directorate General of General Legal Administration (AHU), and several key documents must be submitted.²⁸ These documents include the Fiduciary Deed, which has been signed by both parties (the grantor and recipient of the security) in the presence of a notary, official identification of both parties (such as identity cards or other official identification), a description of the fiduciary collateral (including type, quantity, and condition of the asset being pledged), and any other documents supporting the fiduciary agreement, if necessary.²⁹

This registration process ensures that the fiduciary collateral is legally recognized and that the rights of both the debtor and creditor are properly documented, preventing future disputes over ownership and collateral status. Registration can now be carried out online through the system provided by the Directorate General of AHU, in addition to being conducted in person at the registered Fiduciary Registration Office. This process simplifies the management and recording of fiduciary collateral, offering greater efficiency and transparency in the administration of such collateral.

²⁶ Muhamad Rayza Aditya and Alisyahbana Saleh, "Perlindungan Hukum Bagi Kreditur Akibat Jaminan Fidusia Yang Dialihkan Oleh Debitur Kepada Pihak Lain Tanpa Sepengetahuan Kreditur," *Jurnal Pro Hukum* 12, no. 2 (2023): 458–69.

²⁷ Fanny Suryani and Paramita Prananingtyas, "Penerapan Pasal 613 Kitab Undang-Undang Hukum Perdata Dalam Akta Jaminan Fidusia," *Notarius* 16, no. 1 (2023): 516–28.

²⁸ Diva Safna Putri et al., "Fungsi Notaris Pada Jaminan Fidusia Online Dikaitkan Dengan Prespektif Hukum Di Indonesia," *Civilia: Jurnal Kajian Hukum Dan Pendidikan Kewarganegaraan* 1, no. 3 (2022): 131–41.

²⁹ Detra Kusma Atri, Supriyadi, and Dhian Indah Astanti, "Peran Notaris Terhadap Perjanjian Kredit Dalam Pembuatan Akta Jaminan Fidusia Yang Didaftarkan Secara Online," *Semarang Law Review (SLR)* 3, no. 1 (2022): 1–11.

Fiduciary collateral is frequently used in financing in Indonesia, where the fiduciary grantor delivers the collateral to the fiduciary recipient (usually the creditor), but the object remains under the control of the fiduciary grantor. Fiduciary collateral provides legal protection to the fiduciary recipient while offering flexibility to the fiduciary grantor to retain control over the object until the debt is fully settled.³⁰ One crucial obligation in the fiduciary collateral mechanism is the notification to the Minister of Law and Human Rights, which relates to the registration of the fiduciary collateral object in the state's administrative system.³¹

This notification ensures legal certainty regarding the status of the pledged object.³² Registration of fiduciary collateral with the ministry serves as a valid legal basis that a particular object has been pledged as fiduciary collateral, thus preventing the risk of legal disputes regarding ownership and rights over the collateral object and ensuring that the object is not transferred without the knowledge of the fiduciary recipient.³³ The notification or registration process, officially recorded with the competent state authority, provides transparency and allows stakeholders to be aware of the legal status of the registered fiduciary collateral.³⁴

Based on Government Regulation Number 21 of 2015 and Minister of Law and Human Rights Regulation Number 25 of 2021, there is an obligation to notify the Minister of Law and Human Rights regarding changes in the status or removal of fiduciary collateral. The purpose of this notification is to ensure that the status of the registered fiduciary collateral object is updated in accordance with changes or the removal of the collateral. After the debt secured by the fiduciary collateral is settled, the fiduciary grantor has the right to request the removal of the fiduciary collateral from the registration.³⁵

To ensure the status of the fiduciary collateral object, it is important to carry out the registration and recording process of fiduciary collateral and its removal in accordance with applicable regulations. Proper registration and recording of fiduciary collateral will provide legal certainty for both the fiduciary grantor and the fiduciary recipient. This certainty is not only for these two parties but also for any third parties who might be involved in related transactions or agreements. Correctly documented and legally certain registration can provide strong protection for ownership rights and control over the fiduciary collateral object, as well as reduce the potential for violations or conflicts in the future.³⁶

³⁰ Hadi Subekti and Nynda Fatmawati Octarina, "Implikasi Hukum Atas Kelalaian Notaris Terhadap Keterlambatan Pendaftaran Jaminan Fidusia," *UNES Law Review* 6, no. 3 (2024): 8870–77.

³¹ Ridwan Sidharta, I Wayan Putu Sucana Aryana Aryana, and Cokorde Istri Dian Laksmi Dewi, "Tanggung Jawab Notaris Dalam Pembuatan Pendaftaran Jaminan Fidusia Secara Elektronik," *Jurnal Aktual Justice* 8, no. 2 (2023): 91–107.

³² Meralda Amala Istighfarin, "Perlindungan Hukum Kreditur Dan Pemilik Jaminan Dalam Pelaksanaan Perjanjian Kredit Dengan Jaminan Tanah Milik Orang Lain," *Acten Journal Law Review* 1, no. 1 (2024): 64–84.

³³ Abiandri Riani Talitha Naz Fikri Akbar and Riani Talitha Nazhlif Semadji, "Peran Notaris Pada Pembuatan Akta Jaminan Fidusia Dengan Objek Jaminan Berupa Hak Cipta," *Indonesian Notary* 3, no. 2 (2021): 1–20.

³⁴ Andi Widjaja, Agus Salim, and Belly Isnaeni, "Pemenuhan Hak Kepemilikan Penerima Fidusia Terhadap Pemberi Fidusia Yang Melakukan Wanprestasi Berdasarkan Akta Jaminan Fidusia," *J-CEKI : Jurnal Cendekia Ilmiah* 3, no. 5 (2024): 4278–95.

³⁵ Herliyani, "Implikasi Hukum Dan Kekuatan Pembuktian Akta Jaminan Fidusia Yang Penandatanganan nya Tidak Dilakukan Di Hadapan Notaris," *Officium Notarium* 3, no. 2 (2023): 154–64.

³⁶ Diana, Rasyid, and Azhari, "Kajian Yuridis Pelaksanaan Penghapusan Jaminan Fidusia Secara Elektronik."

This process is carried out by notifying the Minister of Law and Human Rights so that the status of the fiduciary collateral object can be updated in the fiduciary registration system. The regulations regarding the removal of fiduciary collateral are already outlined in the aforementioned government regulation and ministerial regulation.³⁷ Before the debt is settled, the fiduciary collateral object remains under the control of the fiduciary grantor, although legally, the object has been pledged as collateral for the fiduciary recipient. The fiduciary grantor retains ownership of the object, while the fiduciary recipient has the right to take over the object if the debt is not settled.³⁸ Once the fiduciary grantor has paid off the debt, the status of the fiduciary collateral object will fully return to the fiduciary grantor. The process of removal or status update requires notification to the Minister to update the status of the object in the fiduciary registration system, in order to maintain legal certainty and ensure that the status of the fiduciary collateral object reflects its actual condition.³⁹

Fiduciary collateral is a legal instrument used to ensure the fulfillment of an obligation or debt by granting rights over an object, where the object remains in the hands of the fiduciary grantor or debtor, even though the ownership status is transferred to the fiduciary recipient or creditor.⁴⁰ Property rights recognize the right of preference, which means that someone with a property right is entitled to have their right fulfilled before others, while the fulfillment for individuals is done proportionally.

The right of preference plays an important role in providing priority to the fiduciary recipient in situations where there is competition for the rights over the fiduciary collateral object, such as in the case of asset distribution during bankruptcy or the sale of the collateral object. This right in fiduciary collateral is a priority right granted in the event of a conflict of rights between the parties interested in the collateral object. In this case, the fiduciary recipient is granted priority in the distribution of the proceeds from the sale of the fiduciary collateral object, particularly when the fiduciary grantor is declared bankrupt or defaults on payment.⁴¹

The right of preference can attach to the collateral object if executed effectively and fairly, to ensure that all parties involved in the fiduciary agreement follow the applicable legal procedures, especially the registration of the fiduciary collateral. Proper registration of fiduciary collateral will provide clear legal certainty for its object. The status of the fiduciary collateral object with the right of preference will provide certainty and stronger legal protection for the fiduciary recipient.

³⁷ Ketut Septian Dripananda, Lastuti Abubakar, and Nanda Annisa Lubis, "Keabsahan Akta Jaminan Fidusia Yang Tidak Ditandatangani Dihadapan Notaris Dalam Perspektif Undang-Undang Jabatan Notaris Dan Undang-Undang Jaminan Fidusia," *Al Qodiri : Jurnal Pendidikan, Sosial Dan Keagamaan* 22, no. 2 (2024): 188–200.

³⁸ Roma Borunami Olivia, "Eksekusi Jaminan Fidusia Berdasarkan Putusan Mahkamah Konstitusi Nomor 2/PUU-XIX/2021," *Jurnal Darma Agung* 31, no. 4 (2023): 1027–35.

³⁹ Ni Wayan Nilandari and Putu Aras Samsithawrati, "Kekayaan Intelektual Sebagai Objek Jaminan Fidusia: Perspektif Keabsahan Hukum Dan Mekanisme Penilaian," *Acta Comitas : Jurnal Hukum Kenotariatan* 8, no. 02 (2023): 324–39.

⁴⁰ Nishka Sylviana Hartoyo and Teddy Anggoro, "Permohonan Pendaftaran Jaminan Fidusia Secara Elektronik Oleh Notaris Pasca Dikeluarkannya PERMENKUMHAM Nomor 25 Tahun 2021," *Jurnal Mercatoria* 15, no. 1 (2022): 35–42.

⁴¹ Ana Wahyu Wijayanti, "Batalnya Sertifikat Merek Yang Dijadikan Agunan Kredit Dalam Bentuk Jaminan Fidusia," *Sang Pencerah* 9, no. 3 (2023): 624–32.

The fiduciary recipient has priority rights over objects that have been registered as fiduciary collateral to ensure debt repayment before other creditors. The fiduciary recipient has the right to execute the fiduciary collateral object if the obligation is not fulfilled, prioritizing their rights over the object. Therefore, it is important to register fiduciary collateral and remove this right of preference.

IV. THE REMOVAL OF FIDUCIARY COLLATERAL WITH NOTIFICATION TO THE MINISTER

The removal of fiduciary collateral is a legal process undertaken to terminate the legal status of an object that has been pledged as fiduciary collateral. This process typically occurs after the debt secured by the fiduciary collateral has been fully paid by the grantor to the recipient of the fiduciary collateral. While the removal is carried out administratively, it has significant legal consequences for the status of the fiduciary collateral object.⁴² Once the recipient of the fiduciary collateral notifies the relevant authorities about the removal, the fiduciary collateral registration office will make a notation of the removal in the national registration system.⁴³

In the Fiduciary Collateral Regulation, in addition to the obligation to register fiduciary collateral, provisions regarding the removal of fiduciary collateral are also regulated, which takes place after the debt secured by the fiduciary collateral has been settled.⁴⁴ According to Article 16, Paragraph (1) of the Fiduciary Collateral Regulation, the removal of fiduciary collateral can be carried out under the following circumstances:

- a. The debt secured by the fiduciary collateral has been paid off;
- b. The rights to the fiduciary collateral are released by the recipient of the fiduciary collateral; and
- c. The object of the fiduciary collateral has been damaged or destroyed.

The purpose of removing fiduciary collateral is to ensure administrative order in determining the legal status of the previously registered fiduciary collateral object. Once the removal is carried out, the object no longer serves as collateral for the debt, and the related fiduciary collateral certificate is considered invalid or no longer applicable. The recipient of the fiduciary collateral is required to send an electronic notification to the Minister of Law and Human Rights to have the fiduciary collateral removed from the list of registered collateral. After the notification is received, a certificate of removal will be issued, confirming that the collateral is no longer valid, thus ensuring that the object is free from any fiduciary encumbrance.⁴⁵

⁴² Tajuddin Noor and Suhaila Zulkifli, "Pembiayaan Berbasis Kekayaan Intelektual Dengan Jaminan Fidusia Bagi Pelaku Ekonomi Kreatif," *Jurnal Rectum* 5, no. 1 (2023): 665–82.

⁴³ Yoga Muslim Irmanda and Yunanto, "Eksekusi Jaminan Fidusia Setelah Adanya Keputusan Mahkamah Konstitusi Nomor 18/PUU-XVII/2019 Dan Nomor 2/PUU-XIX/2021," *Jurnal Ilmiah Universitas Batanghari Jambi* 23, no. 2 (2023): 1444–50.

⁴⁴ Bella Anggraini and Bambang Eko Turisno, "Jaminan Fidusia Secara Online Dengan Objek Hak Cipta Dalam Perjanjian Kredit," *Notarius* 16, no. 1 (2023): 83–93.

⁴⁵ Henrico Valentino Nainggolan et al., "Penerapan Putusan Mahkamah Konstitusi No.18/PUU-XVII/2019 Dalam Putusan Pengadilan Terkait Eksekusi Jaminan Fidusia," *Locus Journal of Academic Literature Review* 2, no. 4 (2023): 365–72.

The removal of fiduciary collateral can only be carried out after the grantor has fully repaid the debt to the recipient of the fiduciary collateral. The obligation to remove fiduciary collateral is crucial because failure to do so by the recipient may disadvantage the grantor.⁴⁶ If the grantor has repaid the debt, they cannot use the collateralized object as fiduciary collateral in a new credit agreement with another party, as the object remains registered as active fiduciary collateral.⁴⁷ Failure to remove the fiduciary collateral also introduces legal uncertainty, which may lead to disputes between the grantor and the recipient of the fiduciary collateral, and harm other parties involved in the fiduciary agreement. Therefore, the removal of fiduciary collateral must be carried out promptly to ensure legal certainty and the protection of the grantor's rights.⁴⁸

Article 25, Paragraph (3) of Law No. 42 of 1999 stipulates that the grantor must notify the Minister when the fiduciary collateral has been removed. This provision is reinforced by Government Regulation No. 21 of 2015 on the Procedure for Registration and Fees for Fiduciary Collateral Deeds and Minister of Law and Human Rights Regulation No. 25 of 2021, which provides more detailed guidelines regarding the notification procedure and the administrative consequences of the removal of fiduciary collateral.⁴⁹

The primary goal of these regulations is to establish legal certainty, terminating the legal relationship between the grantor and the recipient of the fiduciary collateral concerning the collateral object.⁵⁰ Additionally, these regulations aim to ensure the accuracy of fiduciary data so that third parties can be informed about the legal status of the collateral object and facilitate the efficient use of the collateral object. As a result, the grantor can reuse the fiduciary collateral after the debt is paid off. However, legal uncertainty can arise due to delays in notifying the Minister. One of the issues is the lack of a clear sanction for delayed notification beyond the 14-day deadline.⁵¹ In practice, despite late notification, the Fiduciary Collateral Registration Office still accepts the notification, but this creates room for interpretation that could be misused.⁵² This ambiguity may result in the collateral object remaining registered as active collateral, even though the debt has been repaid. The consequence of this is that a new recipient of fiduciary collateral cannot accept the object as valid collateral, and the grantor cannot use the object for other purposes or pledge it again.

⁴⁶ Dina Dayanti, Sufiarina Sufiarina, and Riana Wulandari Ananto, "Perlindungan Hukum Hak Kreditur Penerima Fidusia Akibat Peralihan Objek Jaminan Fidusia Oleh Debitur," *Causa: Jurnal Hukum Dan Kewarganegaraan* 2, no. 5 (2024): 61–73.

⁴⁷ Diva Paris Alfitra, "Kepastian Hukum Penghapusan Objek Jaminan Fidusia Secara Elektronik," *Recital Review* 3, no. 1 (2021): 122–49.

⁴⁸ Agustina Purwasih and I Gusti Agung Wisudawan, "Pelaksanaan Lelang Jaminan Fidusia Sebagai Jaminan Kredit Dalam Perbankan," *Commerce Law* 3, no. 1 (2023): 145–56.

⁴⁹ Vikriatuz Zahro, Iswi Hariyani, and Iwan Rachmad Soetijono, "Juridical Implications of the Issuance of Covernotes by A Notary as Basis of Disbursing Credit of Banking," *Jurnal Ilmu Kenotariatan* 4, no. 2 (2023): 102–18.

⁵⁰ Putri Wahyu Maulana, "Perjanjian Lisensi Berupa Konten Youtube Pada Jaminan Fidusia Menurut Peraturan Pemerintah Nomor 24 Tahun 2022 Tentang Ekonomi Kreatif," *Bureaucracy Journal : Indonesia Journal of Law and Social-Political Governance* 3, no. 1 (2023): 529–39.

⁵¹ Dicky Bagus Sanjaya and Tamsil Tamsil, "Analisis Yuridis Terhadap Putusan Mahkamah Konstitusi 2/PUU-XIX/2021 Bagi Penerima Jaminan Fidusia (Kreditur)," *Novum : Jurnal Hukum* 10, no. 1 (2023): 107–21.

⁵² Novia Betsy Clarissa and Siti Malikhatun Badriyah, "Efektivitas Pendaftaran Jaminan Fidusia Secara Online Oleh Notaris," *Notarius* 16, no. 1 (2023): 426–38.

Furthermore, delays in notification or failure to notify the removal of fiduciary collateral can be considered negligence on the part of the recipient of the fiduciary collateral, while the grantor suffers because the object, which is no longer tied to the debt, is still considered "encumbered." The legal implication of such delays or failure to notify is that the fiduciary collateral status does not automatically cease. Article 25, Paragraph (2) of the Fiduciary Collateral Law states that fiduciary collateral shall be removed upon repayment of the debt, but Paragraph (3) emphasizes that notification to the Minister is a necessary administrative condition for formal removal. Without this notification, the fiduciary right remains administratively active and cannot be re-pledged.

The collateral object still registered under the old fiduciary recipient cannot be re-pledged, thus hindering the flexibility of the grantor in utilizing the asset.⁵³ To address the issues related to the obligation to notify the Minister, several steps can be taken. First, a revision of the Fiduciary Law and its regulations is necessary, particularly to clarify the notification deadline and to impose strict administrative sanctions for delays in notification. Additionally, the legal status of the collateral object during the delay period should be clearly stated, so as to avoid any uncertainty regarding the status of the object.

Moreover, awareness campaigns targeting relevant parties, such as fiduciary recipients, grantors, and notaries, are also essential to provide a deeper understanding of the notification obligation and its consequences. Finally, regulations ensuring legal certainty should be reinforced, ensuring that even in the case of delayed notification, objects for which the fiduciary collateral has been repaid are no longer considered active collateral and can be reused by the grantor for other purposes. By taking these steps, transparency and efficiency in the management of fiduciary collateral can be improved.⁵⁴

The obligation to notify the Minister is an essential administrative requirement for terminating the legal relationship concerning fiduciary collateral objects. However, the current regulations still have gaps, namely the lack of clarity about the legal status in cases of delays or even non-notification. Therefore, revising existing regulations is necessary to provide further clarity regarding the legal status of the collateral object in such circumstances.⁵⁵

The implementation of a more efficient digital system for the notification and removal process of fiduciary collateral should also be considered to expedite administrative procedures. Public awareness campaigns for relevant parties, such as fiduciary grantors, fiduciary recipients, and notaries, are crucial to ensure a good understanding of this obligation and to enhance legal certainty and administrative efficiency in the implementation of fiduciary collateral. Increasing transparency in this process will also reduce the potential for legal disputes in the future, as the involved parties can more easily access the current status of the fiduciary collateral objects through a more open and integrated system.

⁵³ Zidna Aufima, "Akibat Hukum Bagi Notaris Dalam Pembuatan Akta Jaminan Fidusia Pasca Terbitnya Putusan Mahkamah Konstitusi Nomor 18/PUU-XVII/2019 Tentang Eksekusi Jaminan Fidusia," *Journal of Judicial Review* 22, no. 1 (2020): 70–88.

⁵⁴ Hasanuddin Muhammadin and M. Yasin Al Arif, "Reformulasi Ketentuan Eksekusi Jaminan Fidusia Dan Relevansinya Dengan Pemenuhan Prinsip Keadilan, Kemanfaatan Dan Kepastian Hukum," *Udayana Master Law Journal* 12, no. 3 (2023): 726–41.

⁵⁵ Clarissa and Badriyah, "Efektivitas Pendaftaran Jaminan Fidusia Secara Online Oleh Notaris."

Currently, fiduciary recipients who are late in providing notification for the removal of fiduciary collateral are still accepted by the fiduciary registration system. This indicates that the 14-day notification deadline is not legally binding. This situation contradicts the principle of legal certainty because the existing rules lack clarity. When notification is delayed, the legal status of the fiduciary collateral object remains registered with the Fiduciary Registration Office, even though the debt has been settled. The impact is that the previous fiduciary recipient is still considered to have fiduciary rights over the object, despite the grantor's obligations being completed. This situation prevents the fiduciary grantor from using the collateral object for other purposes, such as re-pledging it, and could potentially harm the grantor who wishes to immediately use the object for other productive activities. It also creates the potential for disputes between the grantor and the fiduciary recipient, leading to differing legal interpretations.⁵⁶

Current practice shows that delayed notifications are still accepted by the system, but there is no mechanism that automatically ensures legal certainty that the fiduciary collateral has been removed after the debt is settled. The absence of clear regulations causes the legal status of the object to remain "in limbo" until official notification is made. Therefore, existing regulations need to be clarified by adding provisions that address the legal consequences of delayed notifications after the 14-day period or by implementing an automatic fiduciary removal mechanism in the administrative system once the debt has been settled, even if the notification is delayed. Furthermore, strict administrative sanctions, such as fines, should be imposed on either the fiduciary recipient or grantor who fails to notify the removal within the prescribed time.⁵⁷

This regulation must affirm that fiduciary collateral is automatically considered legally removed once the debt is settled, even if the administrative notification has not been made. However, the notification remains necessary to provide clarity on the administrative status. To this end, fiduciary grantors, fiduciary recipients, notaries, and other relevant parties should be educated on the importance of the obligation to notify the removal of fiduciary collateral and the implications of any delay.⁵⁸

The provision regarding the 14-day period for notifying the removal of fiduciary collateral should be considered administrative; however, the lack of clarity regarding the consequences of delay creates legal uncertainty. Therefore, regulatory revision, the reinforcement of penalties, the digitization of the system, and education for all involved parties are crucial to address this issue. These measures will ensure that the rights of fiduciary recipients, fiduciary grantors, and third parties are protected, while also creating legal certainty in the removal of fiduciary collateral.⁵⁹

⁵⁶ Aura Mayshinta and Muh. Jufri Ahmad, "Perlindungan Terhadap Kreditur Pemegang Jaminan Fidusia Atas Hak Cipta Konten Youtube," *Bureaucracy Journal : Indonesia Journal of Law and Social-Political Governance* 3, no. 1 (2023): 51–63.

⁵⁷ Yehezkiel William Franklin Ukus, "Eksistensi Lembaga Jaminan Fidusia Dalam Kaitannya Dengan Pemberian Kredit Perbankan," *Jurnal Lex Privatum* 11, no. 2 (2023): 134–48.

⁵⁸ Mohammad Reynaldy Adam and Wiwik Wulandari, "Kepastian Hukum Akta Perubahan Badan Kredit Desa Menjadi PT. Lembaga Keuangan Mikro," *Jurnal Ilmu Kenotariatan* 4, no. 2 (2023): 162–72.

⁵⁹ Henny Saida Flora, "Fungsi Akta Notaris Dalam Pembuatan Akta Jaminan Fidusia Menurut Undang-Undang Nomor 42 Tahun 1999 Tentang Jaminan Fidusia," *Jurnal Justika* 3, no. 2 (2021): 77–91.

V. LEGAL IMPLICATIONS OF THE VALIDITY OF THE LEGAL STATUS OF FIDUCIARY COLLATERAL

In the Principle of Legal Certainty, the implementation of the online removal of Fiduciary Collateral should provide administrative convenience that strengthens legal certainty. The digitization of the fiduciary removal process aims to enhance efficiency and transparency in administration. However, this mechanism must be accompanied by clear regulations to avoid creating legal uncertainty for the parties involved.

One aspect that needs to be clarified is the synchronization between the material legal status, such as the settlement of the debt, and the administrative status of the fiduciary collateral in the system. Currently, the absence of clear regulations regarding the consequences of delayed notification for the removal of fiduciary collateral creates a legal gap that can disadvantage the fiduciary recipient, the fiduciary grantor, and third parties. While the removal of fiduciary collateral can be done online, the legal status of the fiduciary object during the delay in notification remains unclear, which could potentially lead to disputes and obstacles in utilizing the collateral.⁶⁰

Therefore, a revision of the regulations governing online fiduciary removal is necessary, which should include provisions regarding binding deadlines, administrative sanctions for delayed notifications, and an automatic removal mechanism after the debt is settled.⁶¹ This would ensure that the online fiduciary removal system genuinely provides legal certainty, protects the rights of the parties, and creates transparency and efficiency in fiduciary administration.⁶²

Digitalization in the Removal of Fiduciary Collateral has not yet fully ensured substantive legal certainty. Although the online system allows for a more practical removal of fiduciary collateral, legal issues still arise due to the lack of clear regulations regarding the legal status of the fiduciary object when the removal notification exceeds the 14-day deadline set forth in Article 25 paragraph (3) of the Fiduciary Collateral Law.⁶³

In practice, the fiduciary recipient or the authorized party can still remove the fiduciary collateral after the 14-day deadline. However, there is no legal certainty regarding the status of the fiduciary object during this delay period, whether it is still considered a valid collateral or not.⁶⁴ The fiduciary recipient should have an obligation to promptly remove the fiduciary collateral administratively through the online system after the debt has been settled and to notify the removal within the specified timeframe.

⁶⁰ Dianita Halim and Gunardi, "Studi Perbandingan Penggunaan Hak Cipta Film Sebagai Objek Jaminan Fidusia Di Indonesia Dan Amerika Serikat," *UNES Law Review* 5, no. 4 (2023): 3302–24.

⁶¹ Rifandika Naufal Afif, Andi Muh Ihsan, and Dita Elvia Kusuma Putri, "Akibat Hukum Bagi Notaris Terhadap Penyalahgunaan Keadaan Dalam Pembuatan Akta Autentik," *Jurnal Ilmu Kenotariatan* 5, no. 1 (2024): 45–61.

⁶² Rizky Andaru Setiawan and Joko Ismono, "Kepastian Hukum Kreditur Preferen Dalam Upaya Parate Executie Perjanjian Fidusia Menurut Undang-Undang Nomor 42 Tahun 1999 Tentang Jaminan Fidusia," *Law and Humanity* 1, no. 3 (2023): 302–23.

⁶³ Febriansyah Ramadhan Sunarya, "Tinjauan Yuridis Praktik Fidusia Ulang Terhadap Objek Jaminan Fidusia Terdaftar," *Jurnal Pro Hukum* 12, no. 2 (2023): 368–77.

⁶⁴ Fernando Paulus Manafe, Agustinus Hadewata, and Orpa J. Nubatonis, "Pelaksanaan Eksekusi Sertifikat Jaminan Fidusia Terhadap Kreditor Berdasarkan Ketentuan Undang Undang Nomor 42 Tahun 1999 Tentang Jaminan Fidusia," *Comserva : Jurnal Penelitian Dan Pengabdian Masyarakat* 3, no. 07 (2023): 2662–76.

The absence of clear regulations regarding the delay in the removal of fiduciary collateral can disadvantage the fiduciary grantor, who has settled the debt but remains hindered in the utilization of the collateral object. The unclear status of the fiduciary object, if not immediately removed, remains recorded in the system as an active collateral. This affects the fiduciary grantor's inability to reuse the object, either to pledge it again to another party or to transfer it in other transactions.

This legal uncertainty is further exacerbated by the lack of an automated mechanism in the fiduciary collateral removal system. Although online removal of fiduciary collateral has facilitated administrative processes, the system does not automatically remove the fiduciary status after the debt is settled, but rather relies on notification from the fiduciary recipient. In practice, fiduciary recipients often neglect their responsibilities, causing the fiduciary object to remain recorded as active collateral despite the debt being paid off.

To address this issue, it is necessary to revise the regulations governing the automatic removal of fiduciary collateral after the debt has been settled, without waiting for a notification from the fiduciary recipient. Additionally, administrative sanctions should be implemented for parties who fail to provide the removal notification within the stipulated timeframe. This would ensure legal certainty for all parties involved, better protecting the rights and interests of the fiduciary grantor, fiduciary recipient, and third parties.

The removal of fiduciary collateral, which can now be conducted online through the General Directorate of General Legal Administration, has made administrative processes easier. However, this mechanism still does not fully guarantee legal certainty without clear regulations on the consequences of delayed removal notifications. To ensure fairness and legal protection for all parties, it is necessary to revise the regulations to close the legal gaps concerning the fiduciary status during delays. Additionally, an automatic removal mechanism should be implemented immediately after the debt is settled, without relying on the fiduciary recipient's notification. Strict administrative sanctions for those who fail to fulfill their notification obligations are also crucial.⁶⁵ Legal certainty in fiduciary collateral can only be achieved if the legal system eliminates ambiguities that could potentially harm the rights and interests of the parties involved.

Procedurally, the registration and notification of the legal status of the fiduciary collateral object only take effect after the object is registered in the fiduciary collateral registration system. This registration grants fiduciary rights to the fiduciary recipient, including preference rights over the collateral object. The obligation to notify the Minister of Law and Human Rights about the removal of fiduciary collateral aims to ensure that the collateral object is free from fiduciary encumbrances. However, delays in notification or administrative removal can obscure the legal status of the collateral object and potentially harm the involved parties, particularly the fiduciary grantor.⁶⁶

⁶⁵ Reodha Noer Ishak Tuanaya, Bambang Eko Turisno, and Novira Maharani Sukma, "Akibat Hukum Dan Penyelesaian Atas Objek Fidusia Yang Di Fidusia Ulang Apabila Debitur Wanprestasi," *Notarius* 13, no. 2 (2020): 629–41.

⁶⁶ Tsuroyyaa Maitsaa' Jaudah, Puji Sulistyaningsih, and Dakum, "Konsekuensi Atas Penghapusan Jaminan Fidusia Yang Tidak Dilakukan," *Media of Law and Sharia* 5, no. 4 (2024): 282–92.

In practice, fiduciary recipients who have the obligation to remove fiduciary collateral often do not fulfill their duties optimally.⁶⁷ Typically, the fiduciary recipient only returns proof of ownership of the collateral object along with a debt settlement certificate as proof that the fiduciary grantor has repaid their debt, but does not issue a certificate for the removal of the fiduciary collateral.⁶⁸ As a result, the fiduciary grantor is the party that suffers harm. This is in line with Article 17 paragraph (2) of Government Regulation No. 21 of 2015 on the Procedures for Registration and Fiduciary Deeds, which states that if the fiduciary recipient or their representative fails to notify the removal of fiduciary collateral as regulated in Article 16 of the same regulation, the fiduciary collateral cannot be re-registered. Therefore, a stricter legal mechanism is needed to ensure the fiduciary recipient's compliance with their obligations in the fiduciary collateral removal process.⁶⁹

Although fiduciary collateral removal can now be done online, its implementation still causes legal uncertainty, especially regarding the obligation to notify the Minister as an administrative requirement for fiduciary removal. This uncertainty is further compounded by the inconsistency between the Fiduciary Security Law, Government Regulation, and Ministerial Regulations, which regulate the 14-day notification period for the removal of fiduciary collateral. Article 25 paragraph (2) of Law No. 42 of 1999 on Fiduciary Security states that fiduciary collateral is removed after the debt is settled, but Article 25 paragraph (3) requires notification to the Minister for administrative removal. Government Regulation No. 21 of 2015 and Minister of Law and Human Rights Regulation No. 25 of 2021 further regulate this mechanism but do not provide firm sanctions for delayed notifications. As a result, the 14-day notification period lacks strong binding force and instead creates ambiguity regarding the legal status of the fiduciary collateral during the delay period.

This inconsistency has the potential to contradict the principle of legal certainty (*rechtssicherheit*), which requires that legal rules be clear, firm, and consistently enforceable. In practice, delayed notifications are still accepted by the system, but without an automatic mechanism that removes fiduciary collateral after the debt is settled, the fiduciary collateral remains recorded as active collateral.⁷⁰ This can harm the fiduciary grantor who cannot reuse the object, as well as create a legal loophole for the fiduciary recipient to delay or even neglect their duty in the removal process. Therefore, regulatory revisions that align better with the principle of legal certainty are necessary, both by imposing administrative sanctions for delayed notifications and by implementing an automatic mechanism that removes fiduciary collateral immediately after the debt is settled, to avoid legal uncertainty that harms the parties involved.

⁶⁷ Sita Farahanie, "Kedudukan Hukum Akta Autentik Yang Dibuat Oleh Notaris Dalam Perspektif Cyber Notary," *Acten Journal Law Review* 1, no. 2 (2024): 171–86.

⁶⁸ Maheswari and Samsithawrati, "Pengaturan Kekayaan Intelektual Sebagai Jaminan Kredit Untuk Menunjang Ekonomi Kreatif: Perspektif Pendaftaran Karya Dan Valuasi."

⁶⁹ Tiyas Putri Megawati, Aulia Dwi Ramadhanti, and Faizah Nur Fahmida, "Akibat Hukum Penandatanganan Surat Kuasa Jual Mutlak Sebelum Debitor Mengalami Kredit Macet," *Jurnal Ilmu Kenotariatan* 5, no. 1 (2024): 76–87.

⁷⁰ Bella Adinda Purwasaputri, I Wayan Yasa, and Ajeng Pramesthy Hardiani Kusuma, "Tanggung Jawab Asuransi Astra Terhadap Tertanggung Atas Kehilangan Sepeda Motor Yang Masih Dalam Proses Kredit," *Acten Journal Law Review* 1, no. 3 (2024): 253–70.

VI. CONCLUSION

Fiduciary security ends with the substantive repayment of debt, but without an official notification, the status of the fiduciary object remains recorded as an active collateral in the system. The absence of clear regulations regarding the removal after 14 days and the lack of an automatic mechanism to provide legal certainty about the termination of fiduciary security, this creating uncertainty for the parties involved. This is problematic because the status of the fiduciary object that has not been removed may create legal risks, such as the potential for overlapping collateral or disputes regarding ownership of the collateral object.

The legal validity of fiduciary collateral can be analyzed from two perspectives: substantive and procedural. From a substantive perspective, the provision of fiduciary security binds both parties—the fiduciary grantor and the fiduciary recipient—to fulfill their respective obligations and rights, with the collateral object being part of a valid agreement. The validity of this agreement depends on the mutual consent of both parties regarding the collateral object used as security for the debt. On the procedural side, the registration and notification regarding the validity of the fiduciary collateral object only apply once the object is registered in the fiduciary collateral registration system. This process provides the legal basis for the fiduciary recipient to have rights over the collateral object and enforce those rights if the fiduciary grantor defaults.

However, if the fiduciary removal is not carried out after the debt is settled, the collateral object remains recorded in the system as an active security, even though the debt has been substantively repaid. In this case, the fiduciary recipient still holds preferential rights over the fiduciary object, even if the debt has been settled. Therefore, it is crucial for both parties to ensure that the fiduciary collateral removal is carried out promptly in accordance with the applicable provisions to avoid legal disputes and ensure legal certainty for the fiduciary grantor, fiduciary recipient, and any third parties involved.

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