

## ABSTRAK

Pasca Putusan Mahkamah Konstitusi Nomor 18/PUU-XVII/2019, Putusan Mahkamah Konstitusi Nomor 2/PUU-XIX/2021, dan Putusan Mahkamah Konstitusi Nomor 71/PUU-XIX/2021 terjadi perubahan norma dalam Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia yang tentunya berdampak pada pelaksanaan lelang eksekusi jaminan fidusia. Penelitian bertujuan untuk menganalisis tantangan pada penyelenggara lelang dan mereformulasi Undang-Undang Jaminan Fidusia pasca Putusan Mahkamah Konstitusi. Penelitian yang dilakukan merupakan penelitian hukum empiris dengan pendekatan sosiologi hukum dan pendekatan kasus. Hasil penelitian menyatakan terdapat 5 (lima) tantangan dalam penyelenggaraan lelang meliputi frekuensi permohonan lelang yang sedikit, dokumen persyaratan lelang yang tidak lengkap, lelang dengan tidak ada peminat, persaingan penawaran yang kurang ketat, dan barang yang dimenangkan telah tidak sesuai kondisi. Hasil reformulasi juga menunjukkan adanya benturan cita keadilan, cita kemanfaatan, dan cita kepastian hukum sehingga diperlukan adanya rekonstruksi hukum. Penambahan frasa “sepakat atas adanya cedera janji” pada Pasal 15 ayat (3) Undang-Undang Nomor 42 tahun 1999 akan mengembalikan hukum sesuai tujuannya.

Kata kunci: Cedera janji, Eksekusi, Jaminan Fidusia, Lelang, Mahkamah Konstitusi

*After the Constitutional Court Decision Number 18/PUU-XVII/2019, the Constitutional Court Decision Number 2/PUU-XIX/2021, and the Constitutional Court Decision Number 71/PUU-XIX/2021 there is a change in norms in Law Number 42 of 1999 concerning Fiduciary Guarantee which of course has an impact on the implementation of the fiduciary guarantee execution auction. The research aims to analyze the challenges faced by auction services and to reformulate the Fiduciary Guarantee Law after the Constitutional Court Decision. This research is an empirical legal research with a legal sociology approach and case approach. The results of the study state that there are 5 (five) challenges in auctions implementation including the frequency of auction requests are less, the auction requirements documents were not qualified, the auction has no interest, the bid competition is low competitive and the objects won are not in accordance with the conditions. The results of the reformulation also show the existence of justice, utility, and legal certainty so the law reconstruction is needed. The addition of the phrase "agree on a default of contract" on Article 15 paragraph (3) of Law Number 42 of 1999 will restore the law according to its purpose.*

*Keywords: Default, Execution, Fiduciary Guarantee, Auction, Constitutional Court*