

ABSTRACT

Nowadays, a fiducia warrant institution is urgently needed, because this body plays an important role in supporting the development of national economy. It stands between the society and fiducia body in order to guarantee a mutual benefits to both parties under an agreement on transferring a fiducia based on trust as a mortgage for the respective loan.

In practice, law violations are often done by debtors who mortgage the fiducia so this causes problems: Who is the real owner of the warrant ? And on what is the penalty given to that kind of debtor, so that the debtor can be pursued by the penalty law of laws No. 42/1999 ?

The owner of the warrant is the debtor who issues the fiducia only as a trust, so that transferror alienating it can be pursued with article 36 of laws No. 42/1999 on fiducia that reads.

“The fiducia issuer who transfers, mortgages or leases the object of the fiducia without any written notice from the receiver of the fiducia will be sentenced to two years of jail or pay a Rp. 50.000.000,- fine”

Key word: Fiducia warrant - misuse of trust - penalty aspect

