

**BUSINESS SECURITY ACT,
B.E. 2558 (2016)**

BHUMIBOL ADULYADEJ, REX.

Given on the 31st Day of October, B.E. 2558;

Being the 70th Year of the Present Reign.

His Majesty the King is graciously pleased to proclaim that:

Whereas it is expedient to amend a law on business security;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows:

Section 1. This Act is called “Business Security Act, B.E. 2558 (2015)”.

Section 2. This Act shall come into force upon the expiration two hundred and forty days from the date of its publication in the Government Gazette¹, except for section 3, section 4, section 15, section 54, section 55, section 56, section 57, section 58 and section 59 which shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. In this Act:

“operation” means a property provided by a security provider in the business operation and rights relating to such business operation which the security provider uses as the

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¹ Published in the Government Gazette, Vol. 132, Part 104 a, Page 1, dated 5th November B.E. 2558 (2015).

security which the security provider may transfer all properties and relevant rights to other persons in the manner that a security receiver may immediately continue such business operation;

“registered property” means a property prescribed by law to be registered;

“registrar” means an official registering business security;

“security enforcer” means a person or several persons agreed by a security provider and security receiver to be a security enforcer in the case where using a business as a security;

“licensee” means a licensee to be a security enforcer under this Act;

“financial institute” means:

(1) a financial institute under the law on financial institute business;

(2) a company licensed to operate an insurance business under the law on life insurance and a company licensed to operate a non-life insurance under the law on non-life insurance;

(3) a bank or financial institute established under a special law.

“right of claim” means a right to receive payment of debt and other rights but shall not include the right represented by written instrument;

“Minister” means the Minister having charge and control of this Act.

Section 4. The Minister of Finance and the Minister of Commerce shall have charge and control of this act and shall have the power to issue a Ministerial Regulation prescribing the fee not exceeding the rate of fee annexed to this Act except for fee and other operation or issue a Notification for the execution of this Act in the part relating to their powers and duties.

Such Notifications and Ministerial Regulations shall come into force upon their publication in the Government Gazette.

CHAPTER I

BUSINESS SECURITY AGREEMENT

Section 5. A business security agreement is an agreement whereby a person, called the “security provider”, grants security over property to another person, called the “security receiver”, as security for the performance of an obligation of the security provider or any other person, without delivering such property to the security receiver.

The security provider may have his or her property’s right represented by a written instrument as security for payment of debt by other persons.

Section 6. A security provider may either be a natural person or a juristic person.

Section 7. A security receiver must be a financial institute or other persons as prescribed in the Ministerial Regulation.

Section 8. Security means the following properties:

- (1) business;
- (2) right of claim;
- (3) movable property provided by a security provider in operating business such as machinery, inventories or raw materials;
- (4) immovable property in the case where a security provider operates an immovable property business;
- (5) intellectual property rights;
- (6) other properties as prescribed in the Ministerial Regulation.

Section 9. A security provider may use a property which he or she has the right over at present or shall have the right over in the future under a contract or legal relationship as security but the preferential right over an object of right which is a security under a contract shall arise only when the security provider obtains such property.

Section 10. A security provider shall have the right in a property which is provided as security under the application of a condition shall only use such property as security in so far as the application of such condition.

Section 11. Parties to the contract may agree to specify a ground for enforcement of security under the business security agreement but such agreement shall not be inconsistent with public order or good moral of the public.

Section 12. In the case where a business is provided as security, parties to the contract shall agree to select a licensee or several licensees as the security enforcer.

The licensee who agrees to be the security enforcer shall notify, in writing, to the other party to the contract including the rate and remuneration for the proceeding.

Section 13. A business security agreement shall be made in writing and registered before the registrar as provided in Chapter II.

In the case where business is provided as security, the contract under paragraph one shall specify a licensee or several licensees as the security enforcer.

CHAPTER II REGISTRATION PROCEEDING

Section 14. The Business Security Registration Office shall be established in the Department of Business Development.

The Business Security Registration Office shall be responsible for registration, correcting the records of registration and terminating the registration of business security agreement under this Act and shall prepare the information relating to the registration and licensee for the public to inspect.

The registration, correcting the records of registration and terminating the registration of business security agreement including providing the access to the public to inspect the information relating to the registration and information relating to the licensees shall be in accordance with the rules and procedures as prescribed by the Director-General of the Department of Business Development and upon the publication in the Government Gazette.

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Section 15. The Director-General of the Department of Business Development shall be the registrar under this Act.

Section 16. The Registrar shall register, correct the record of registration or terminate the registration of business security contracts in accordance with the information as reported by the persons having the duty to carry out the registration under this Chapter and the persons carrying out the registration shall be responsible for the correction and completion of the information reported.

In the case where the information reported by the person having the duty to carry out the registration is incomplete under section 18, the Registrar shall not register, correct the record of registration or terminate the business security agreement.

Section 17. The security receiver, upon the agreement in writing by the security provider, shall be a person carrying out the registration before the registrar.

Upon being registered under section 16 paragraph one, it shall be deemed that the security receiver is a secured creditor under the law on bankruptcy.

In the case where a business is provided as security, the security receiver shall submit a letter from a licensee who agrees to be the security enforcer with the registration application.

If a security provider must be granted with a permission to exercise the rights relating to the business operation before transferring such right to other persons, the security receiver shall submit a letter from the person granting the right to such security provider to transfer to other persons before the registrar with the registration application.

Section 18. The registration shall, at least, consist of the followings:

- (1) date, month, year and time of the registration;
- (2) name and address of a debtor and security provider;
- (3) name and address of a security receiver;
- (4) name and address of a licensee who agrees to be a security enforcer and the rate or remuneration of the security enforcer in the case where business is provided as security;
- (5) obligations as prescribed to be secured;

(6) details of the property provided as security. In the case where a property has a registration, the type of registration, registration number and registrar shall be specified. In the case of movable asset which the security provider used in operating a business, the type, amount and value of such property shall also be specified

(7) the statement illustrating that the security provider registers such property in the registration to the security receiver as security;

(8) the maximum secured amount;

(9) enforcement event in accordance with the business security agreement;

(10) other details as prescribed by the registrar and published in the Government Gazette.

Section 19. In the case where a property provided as a security is a registered asset, the registrar shall inform other registrar and creditors who have the preferential right over the security as appeared in the list of registration record in respect of the registration under this Act.

The registrar shall record the security under this Act in the property record for security expeditiously upon the notification under paragraph one.

Section 20. Parties to the contract may agree to amend the registration and, in this regard, the security receiver, upon the written consent from the security provider, shall be a person applying for an amendment of the registration within fourteen days as from the date of receipt of such written consent.

If the details of a property provided as security changes from what is registered as agreed by the parties to the contract, the security provider shall notify, in writing, the security receiver, within seven days as from the date of such event. If such case does not cause the security enforcement, it shall be deemed that the notification for the amendment of details of the secured property is a consent letter of the security provider and the security receiver shall apply for the registration amendment within fourteen days as from the date of receipt of such notification.

In the case where a secured property is merged with property of other persons and becoming a part of the property or becoming indivisible, name and address of person who

is a property owner including the type, amount and value of the property merged with security shall be specified in the notification under paragraph two.

A person carrying out an application for a registration amendment under this section who fails to amend such event shall not argue this matter against a third party in good faith.

The provision of section 19 shall apply to the amendment of registration under this section *mutatis mutandis*.

Section 21. When the secured debt ceases for any other reason but the statute of limitation or when the parties to the contract agree in writing to terminate the business security agreement or property provided as security is redeemed, the security provider, upon a written consent from the security receiver, shall be a person applying for a termination of registration within fourteen days as from the date of receipt of the written consent.

When a property provided as security is disposed in the security enforcement or when the property provided as security is released to the security receiver, the security receiver shall be a person applying for a termination of registration within fourteen days as from the date of the disposition of property or release of property, as the case may be.

CHAPTER III

RIGHTS AND DUTIES OF A SECURITY PROVIDER AND SECURITY RECEIVER

Section 22. The security provider shall have the right to possess; use, exchange, dispose, transfer and mortgage the property provided as security including using it as security, production, merging into other properties in the case of possession to be wasted and fruits of the property provided as security except as agreed otherwise by the parties to the contract.

The security provider shall not pledge the property provided as security under this Act for the payment of debt and such pledge shall be void.

Section 23. Subject to section 22, the security provider shall be careful and uses the skill to reserve the property provided as security as a reasonable man would do for the business operation and profession and shall maintain such property.

The security provider shall be liable for damages in the case where the property provided as security is lost or its value is depreciated except if he or she can prove otherwise that such damage does not cause from an event which he or she shall be responsible for.

Section 24. The security provider shall prepare a property account provided as security in accordance with the trade practice or as agreed by the parties to the contract except if it is prescribed otherwise by the Ministerial Regulations.

Section 25. The security provider shall agree to have the security receiver or representative to inspect, from time to time, the property provided as security and the property account during the appropriate time and period. In this regard, the security receiver shall notify, in writing, the security provider, by registered post or other means which illustrates that the security provider has received the notification for no less than three days prior to such operation.

The inspection of property provided as security and property account under paragraph one shall be conducted before the security provider or a person entrusted by the security provider and the security provider shall facilitate the security receiver as appropriate.

Section 26. In the case where the security provider notifies in writing the security receiver specifying the amount of obligation remaining to be paid to the security receiver which is the secured obligation under this Act for the security receiver to certify the correctness, the security receiver shall confirm, in writing, or certifies the amount of correct obligation, to the security provider, within fifteen days as from the date of receipt of such notification. Otherwise, if damage occurs, the security receiver shall pay the compensation to the security provider.

The security provider shall have the right to proceed under paragraph one without any expenses except if the exercise of such right is made within six months as from the date of the previous notification sent to the security receiver and in such case the security provider shall pay the expense to the security receiver each time in accordance with the rate as prescribed in the Ministerial Regulation.

Section 27. The security provider has the right to redeem the property provided as security at any time before the property is disposed or before the right of the property is released to the security receiver. The payment of obligation shall be in accordance with the

amount specified for the secured payment including the expense in maintaining the property as security, appropriate expenses and fee resulting from the enforcement of the security.

Section 28. When the secured debt is extinguished for any other reason but the statute of limitation or when the parties to the contract agree in writing to terminate the business security agreement or when the property provided as security is redeemed, the security receiver shall issue a consent letter for the termination of registration to the security provider immediately. Otherwise, if damage occurs, the security receiver shall pay the compensation to the security provider.

CHAPTER IV

RIGHTS AND DUTIES BETWEEN THE SECURITY PROVIDER AND SECURITY RECEIVER AND THIRD PARTY

Section 29. The security receiver shall have the right to receive the payment of debt from the secured property before an ordinary creditor regardless of whether the right in such property has been transferred to a third party.

Section 30. If the property provided as security is merged with the property of other persons and it becomes a part of such property or indivisible, the security receiver has the right under section 29 over the property merged proportionately to the value of the property provided as security at the time the property is merged.

Section 31. In the case the security provider obtains the property from the disposition, transfer, exchange or replacement of security or having the security including the compensation resulting from such property being lost or damaged, it shall be deemed that the property obtained is security.

The security receiver shall have the right under section 29 over the property obtained to replace the property provided as security under paragraph one when the amendment of the details of registration has been made, before the registrar, so that such property shall continue to be security. In the case where the property obtained is a right of claim, the security

receiver shall only argue upon such right against the debtor when a notification has been sent to the debtor who has the right.

The provision of this section shall apply to the property obtained from the disposition, transfer, exchange or replacement of security and compensation resulting from a loss and damage of such property.

Section 32. In the case where the property provided as security or having the property as security merged or obtained for a replacement of security under section 31 is the property which the security provider uses in operating a business and in the manner that such property changes hands all the time, the third party obtaining such property during the course of normal trade or upon the consent of the security receiver shall have such property without being security.

If the property provided as security or having the property provided as security merged or obtained as a replacement for security under section 31 is not the property under paragraph one, the third party who obtains such property with good faith and pay the remuneration or upon the consent of the security receiver shall have such property without being security.

Section 33. In the case where a property is registered as security under this Act against several security receivers, the order of the security receivers in accordance with the date and time of the registration shall be deemed to be carried out and the security receiver who registers first shall have the right to have the payment of debt before the security receiver or mortgagee who register after.

If the property provided as security under this Act is mortgaged, the payment of debt shall take the order of the security receivers and mortgagees in accordance with the date and time of the registration and the security receiver who registers first shall have the right to have the payment of debt before the security receiver or mortgagee who register after.

Section 34. When the preferential right is inconsistent with the rights under the business security contract the following order of the preferential right shall be exercised:

(1) If the property provided as security is a movable property, the security receiver shall have the same right as the mortgagee under section 282 of the Civil and Commercial Code

and if the movable property is registered, the security receiver shall have the same right as the mortgagee under section 287 of the Civil and Commercial Code;

(2) If the property provided as security is an immovable property, the security receiver shall have the same right as the mortgagee under section 287 of the Civil and Commercial Code.

CHAPTER V

ENFORCEMENT OF THE SECURITY WHICH IS A PROPERTY

Section 35. In the case where the property is mortgaged as the security under other laws and is registered as security under this Act or taking the property registered as security under this Act to be mortgaged under other laws, the mortgagee may enforce the mortgage by enforcing the security under this Act.

During the period where the mortgagee enforces the mortgage under the law and if it appears that there is an event for the enforcement of security under the business security agreement, upon being notified of such event from the security receiver under the business security agreement, the mortgage must enforce the mortgage by the enforcement of security under this Act.

In the case where an event for the enforcement of security under the business security agreement arises during the period where the case for enforcement of mortgage is under the consideration of the court, the security receiver under the business security agreement shall submit a petition the court so as to request the court to terminate the consideration. In this regard, the Court shall proceed with the inquiry expeditiously. If it appears to the court that the event for the enforcement of security under the business security agreement arises, the court shall make a termination order except if there is no such event or the event for the enforcement of security under the business security agreement is inconsistent with the public order or moral, the court shall dismiss the petition. In the case where the court orders to terminate the consideration, the mortgagee shall enforce the security under this Act and upon the completion, the mortgagee shall declare to the court. However, if the event for the enforcement of security under the business security agreement occurs during the enforcement of the court judgment, an executing officer shall execute the case in accordance with the judgment expeditiously.

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Section 36. The security receiver may enforce the security by releasing the property provided as security or by disposing the property provided as security for debt payment.

Section 37. No security receiver shall enforce the security by releasing the property provided as security as the right except if the debtor fails to pay the obligation whereby the value equals or more than the value of the property provided as security and the debtor fails to pay for the interest for five years without other security or preferential rights registered over the property provided as security.

The exercise of the right of possession of property provided as security paragraph one shall not be inconsistent public order or moral.

Section 38. When the event for the enforcement of security under the business security agreement arises and the security receiver notifies, in writing, of the event of enforcement of security, the security provider shall not dispose, transfer the property provided as security or commit any act which will result in security being damaged or depreciated and the security receiver shall have the right to possess the property provided as security.

The exercise of right to possess of the property as security under paragraph one shall not be inconsistent public order or moral.

Section 39. In the case where an event for the enforcement of security under a business security agreement arises and the security receiver has notified the event for the enforcement of security, if the security provider or the person possessing the property provided as security agrees to deliver the property possession as security to the security provider and the consent letter as security for disposal, the creditor under other judgments shall not seize or confiscate the property provided as security but such creditor shall notify, in writing, the security receiver, for the appropriation of property or money from the sale of such property.

Within fifteen days as from the date of possession of the property provided as security under paragraph one, the security receiver shall notify, in writing, the debtor and security provider to settle the debt within fifteen days as from the date of receipt of such notification and shall inform that a failure to settle the debt within the prescribed time period, the security receiver shall enforce the security by releasing the security as the right or disposing the security into money to settle the debt and submit a copy of such notification to other security receivers and creditors

that have the preferential right over the property provided as security to the names appeared in the record for acknowledgement.

If the property provided as security is degradable or, in the case of delay, it may be at risk of being damaged or the maintenance exceeds the value of the property, the property receiver may dispose of the property provided as security under the appropriate means to obtain the money to settle the debt immediately without proceeding under paragraph two.

In the case where the property provided as security is the right of claim, when the security receiver notifies, in writing, the event of the enforcement of security to the debtor of right, the debtor of right shall not settle the debt against the security provider as from the date of receipt of such notification. Upon the lapse of time for the right of claim, the debtor of such right shall settle the debt against the security receiver.

The delivery of such notification under this section shall be made via a registered and correspondent mail or by any other means which illustrates that the recipient has received the notification.

Section 40. Subject to section 43, in the case where a security provider fails to pay for debt within the time period as specified in the agreement under section 39 paragraph two and the creditor wishes to enforce the security by selling the assets used as security to ensure the money to pay for debt, the security receiver shall proceed to sell, by auction, the security in public. In this regard, the security receiver shall issue a letter specifying the date, time, place and procedure for the sale of security to the security provider, other security receivers and other creditors who have the preferential right over the assets used as the security so far as the list appeared in the registration at least seven days prior to the procedure to sale the security by registered mail or other means which illustrates that a recipient has received the letter.

Section 41. In the sale of assets used as the security under section 39 paragraph three and section 40, the security receiver shall be aware in preceding such act as if a reasonable would act under such circumstance.

The provision on the petition of auction under the Civil Procedure Code shall apply to the proceeding under paragraph one *mutatis mutandis*.

A person who purchases the assets used as the security under the sale under section 39 paragraph three and section 40 shall be transferred with the security without liability or mortgage.

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Section 43. In the case where the asset used as the security is the right in the deposit money in a financial institute and the security receiver is such financial institute or is the depository for the benefit of all security receivers, the security receiver may take that deposit money to pay for the debt immediately upon the incident to enforce the security in accordance with the contract. However, the security provider shall be notified by registered mail or other means which can identify that the person has received the letter within seven days as from the date of proceeding.

If the security provider and security receiver agree to allow the financial institute to deduct such depository money to pay for debt under the business security agreement instead of the security receiver. The depository financial institute may deduct such money to pay for debt immediately upon receiving the notification from the security receiver that there is an incident to enforce the security under the contract.

The provisions of section 52 shall apply, *mutatis mutandis*, to deducting the deposited money to pay for debt under this Act.

Section 44. If the security receiver wishes to enforce the security by the assets used as security as the total right and the security provider fails to pay for the debt within the time period as specified in writing under section 39 paragraph two without any written petition against the enforcement of security as the right within such specified time period, the assets used as the security and interest occurred as from the date the security receiver has the right to possess the assets used as the security. However, in the case where the security receiver receives the written petition within such time period, the security receiver shall publicly sell the assets used as the security by auction and the provisions of section 40 and section 41 shall apply to the sale of security under this section, *mutatis mutandis*.

Sending of the written petition under paragraph one shall be made via registered mail or other means which can illustrate that the recipient has received the petition.

Section 45. Before selling the assets used as the security under section 39 paragraph three, section 40 and section 44 or before the assets used as the security will be released as the right of the security receiver under section 44, the security receiver shall safely maintain the assets used as the security to be within his or her possession and shall preserve the assets used as the security as a reasonable man should do to his or her assets.

In the case where the assets used as the security which is in the possession of the security receiver is damaged or lost with no ground to accuse the security provider, the amount of damage shall be deducted from the debt liable to the security provider under the business security agreement.

Section 46. In the case where there is an incident to enforce the security under the business security agreement, if the security provider or the person seizing the assets used as the security refuses to deliver the possession of the assets used as the security, the security receiver may submit a petition to the Court to rule on the enforcement of the security by specifying in the petition that the security which is the right would be enforced or by sale of the assets used as the security would be enforced to pay off the debt.

Section 47. Upon receiving the petition under section 46, the Court shall specify the date for consideration promptly and issue a warrant to the security provider or a person seizing the assets used as the security and in such warrant it shall specify the reason for which the security provider requests to the Court to enforce the security and means to enforce the security in accordance with the petition and the statement that the security provider shall come to the court for testimony and taking of evidence shall be made on the same day. The court shall also order the security receiver to come to the Court on the same day.

The Court shall continuously consider the case every day until the completion of consideration and shall issue the judgment or order except in the case of *force majeure*.

The parties to the case shall come to the Court on the consideration dates and for the purpose of this matter, the provisions of section 200, section 201, section 202, section 203, section 204, section 205 and section 206 of the Civil Procedure Code shall, *mutatis mutandis*, apply to the consideration of the court under this section.

Section 48. In the case where the court sees that there is a reason to enforce the security under the business security agreement and agreement relating to the reasons for enforcing the security which the security receiver raises as the reason for enforcement under the business security agreement and while such reasons do not contradict the public order or moral, the court shall rule for the enforcement of security in accordance with the means the security receiver requests, except in the case where the security receiver requests the security to be

released as right but it does not fall within the conditions under section 37, the court shall sell the assets used as the security by auction to pay off the debt.

In the case where the court sees that there is no ground for the enforcement of security under the business security agreement or agreement relating to the reasons for enforcing the security which was raised by the security receiver under the business security agreement contradicts with public order or moral, the court shall dismiss the petition.

The judgment or order of the court under this section shall be appealed to the Appeal Court within fifteen days as from the date the court has issued the judgment or order and the provisions on stay of execution of judgment or order of the court under the Civil Procedure Code shall apply to an appeal under this section *mutatis mutandis*.

The judgment or order of the Appeal Court is final.

Section 49. The security receiver may request to the court together with the request under section 46 for an interim order to seize or confiscate the assets used as the security until the court issues a judgment or order under section 48 by placing a levy or security to prevent any damage which may occur from the seizure or confiscation of assets used as the security for the amount as specified by the court but shall not be less than twenty five percent of the maximum amount of money agreed for asset used as security.

Section 50. In the case where the court issues an interim judgment or order to seize or confiscate the security but the security provider finds it necessary to transfer the security under the agreement to an external party, upon requesting and placing a levy in accordance with the amount as the court deems fit, the court may allow the security provider to transfer such assets used as the security.

Section 51. In the case where an assets used as the security is the registered assets, a security receiver shall notify, in writing, the distribution of security under section 39 paragraph three, section 40 or section 44 or when the security receiver submit a judgment order enforcing the security under section 48, the registrar shall amend the asset registration used as the security by considering that the notification on facts relating to the enforcement of the security or court order to enforce the security as if it were the intention of the security provider.

Section 52. Money obtained from the sale of assets as the security under section 39 paragraph three, section 40, and section 44 and the interest incurred from the date the security

receiver has the right to possess the assets used as the security and shall be liquidated in this order:

- (1) expenses for the maintenance and reservation of assets used as the security under section 45;
- (2) expenses as deemed appropriate and fee occurring from the enforcement of the security;
- (3) payment of debt to the security receiver and other debtors who has the preferential right as appeared in the registration evidence accordingly;
- (4) payment of debt to the debtors in accordance with other court judgment requesting to share the assets or money from the sale of assets under section 39;
- (5) the remaining money (if any) to be returned to the security provider.

The provisions of section 287, section 289 and section 319 of the Civil and Commercial Code shall apply to the payment of debt to other debtors with the preferential right under (3) *mutatis mutandis*.

In the case where the money from the sale of assets used as the security is less than the remaining debt, the shortage of money shall be deemed the debt which the security receiver may request from the debtor but if the security provider is not the debtor, the request may not be possible.

Any matter which deviates from this section shall be void.

Section 53. In the case where the security receiver enforces the security by which the assets is the right, it shall be deemed that the main debt and the debt under the business security agreement are ceased.

Any matter which deviates from this section shall be void.

CHAPTER VI
THE ENFORCEMENT OF SECURITY WHICH IS A BUSINESS OPERATION

Part 1
Security Enforcer

Section 54. Any person who wishes to be a security enforcer shall obtain a license from a Registrar.

Section 55. A person applying for license to be a security enforcer shall have the knowledge, expertise and experience in law, accounting, economics, business management or asset evaluation in accordance with the criteria as prescribed in a notification by the Minister and shall not be under any of the following prohibitions:

- (1) being or having been corrupted bankrupt, being bankrupt or being released from being a bankrupt person for less than five years;
- (2) having been sentenced by a final court judgment in an offence relating to assets or an offence under section 89 or section 90;
- (3) having been a member of the Board, manager or a person having the power in the management of a financial institution whose license was revoked unless otherwise is exempted under the criteria as prescribed by the Minister;
- (4) being a member of the Board, manager or a person having the power in the management of the security provider or security receiver;
- (5) having been removed from being a Board chairperson, member of the Board or manager under section 144 or section 145 of the Securities and Exchange Act B.E. 2535 or under the provisions of other laws;
- (6) being a political officer, person holding political position or a person holding a position in a political party;
- (7) being a government official who has a permanent position or salary;
- (8) being under any of the prohibitions as prescribed by the Minister.

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Section 56. An application for a license to be a security enforcer shall be submitted to the Registrar in accordance with the form as prescribed in a notification by the Minister.

In the case where the Registrar has examined and viewed that the applicant under paragraph one has the qualifications and is not under any of the prohibitions under section 55, the Registrar shall issue the license to be a security enforcer.

The Registrar shall notify the applicant whether or not the permission has been granted under paragraph two within sixty days as from the date of receipt of the application under paragraph one.

In the case where the Registrar does not issue a license to be a security enforcer, the applicant has the right to appeal to the Minister within thirty days as from the date of receipt of notification of refusal by which the applicant shall appeal to the Registrar.

The Minister shall complete an appeal consideration within sixty days as from the date of receipt of appeal and the decision of the Minister shall be final.

Section 57. A license to be a security enforcer shall be valid for three years as from the date of issuance of license.

An application for renewal of license and renewal of license shall be in accordance with the rules, procedures and criteria as prescribed in a notification by the Minister.

In the case where the Registrar does not renew a license, the applicant has the right to appeal to the Minister within thirty days as from the date of receipt of notification for refusal to renew a license. The applicant shall appeal to the Registrar.

The Minister shall complete the appeal consideration within sixty days as from the date of receipt of appeal and the decision of the Minister shall be final.

Section 58. In the case where a license to be a security enforcer is lost or damaged in the important content, the licensee shall submit an application for a license substitute to the Registrar.

The application for license substitute and issuance of license substitute shall be in accordance with the rules, procedures and conditions as prescribed by the Minister.

Section 59. If it appears that a licensee lacks a qualification or is under any of the prohibitions under section 55 or the court has a judgment for a security enforcer to be dismissed under section 77, the Registrar shall revoke the license of such security enforcer.

The licensee whose license has been revoked under paragraph one has the right to appeal to the Minister within thirty days as from the date of receipt of the notification for the revocation of license. Such licensee shall submit an appeal to the Registrar.

The Minister shall complete the consideration within sixty days as from the date of receipt of the appeal and the decision of the Minister is final.

During the period where the decision is pending, the Minister shall have the power to order that such operation shall, *pro tempore*, continue the operation in the case where an appellant submits a request.

Section 60. Remuneration of a security enforcer shall be in accordance with the rate and amount as appeared in the registration detail under section 18(4) or as ordered by the Court, as the case may be.

Part 2

Process to Enforce the Security which is a Business Operation

Section 61. In the case where a business operation is used as a security, the enforcement of the security shall be in accordance with the provisions under this Chapter.

Section 62. The provisions of section 35, section 42 and section 51 including the relevant penalties to apply to the endorsement of the security which is a business operation under this Chapter *mutatis mutandis*.

Section 63. In the case where there is a ground for the enforcement of business security agreement, a security receiver shall inform, in writing, a security enforcer by registered mail or other means which illustrates that the security enforcer has received such notification.

The security enforcer shall specify the date, time and place of fact inquiry promptly which shall not exceed seven days as from the date of receipt of the notification under paragraph one and shall notify, in writing, a security provider and security receiver without delay

via registered mail or other means which illustrates that the receiver has received the notification. In this regard, a reason for which the security receiver enforces the security and consideration issues including a photocopy of notification of the security receiver under paragraph one.

In the case where a security enforcer dies or is unable to perform his or her duties due to a lack of qualification or being under any of the prohibitions under section 55, prior to proceeding under paragraph one, the parties to the agreement shall select other licensee to be a security enforcer and the provision of section 12 paragraph two shall apply to the selection of a security enforcer under this section *mutatis mutandis*.

In the case where the parties to the agreement is unable to agree on the selection of the security enforcer within fifteen days as from the date of the reason under paragraph three, any of the parties to the agreement may submit a request to the Court to issue an appointment order to one or several licensees as deemed appropriate by the court to be a security enforcer.

Section 64. A security provider shall notify, in writing, the present details relating to a business operation used as the security on the date the security provider has received the notification under section 63 paragraph two to the security enforcer within seven days as from the date of receipt of such notification. In the case of a special reason, the security enforcer may extend the period as deemed appropriate.

In the case where the security provider does not explain the details relating to the business operation used as the security within the time period as prescribed in paragraph one, it shall be deemed that the date the security receiver received the notification under section 63 paragraph two, the business operation used as the security exists in so far as it appears in the registration on the date the security receiver received such notification.

Section 65. Upon receiving the notification under section 63 paragraph two, no security provider shall sell or transfer the business operation used as the security except:

(1) such business operation has the assets which are fresh objects and can be rotten or if it is delayed, it would pose a damage or expenses in maintenance and it would exceed the value of the assets or the assets which the security provider has the duty to transfer to an external party under a contract or legal relationship made prior to the date of receipt of the notification under section 63 paragraph two in these assets, the security provider may dispose, transfer such assets by the means deemed appropriate but shall issue a notification to the security

enforcer to be acknowledged in advance the necessary reason to dispose or transfer such assets, type and quantity of such assets, the date, time, place, means of disposal and market price of such assets of the date of the notification and price which would be disposed in accordance with the market price of the assets;

(2) the security provider has placed security money or the security to prevent damages from the disposal of business operation used as the security for the amount determined by the security enforcer which shall not be less than twenty five percent of the maximum amount of money agreed to use the business operation as the security.

Section 66. In inquiring fact, the security provider or the security receiver may proceed by himself or grant an authorization to any or several persons to proceed on his behalf.

The procedure and means for inquiring fact shall be as prescribed in a Ministerial Regulation.

Section 67. Upon the completion of the fact inquiry, the security enforcer shall decide whether or not there is a ground for security enforcement. In the case where it is decided that there is a ground for security enforcement, the amount of debt shall be specified.

In the case where the parties to the agreement agree to have several security enforcers, the decision of be made by majority.

In the case where there is a ground for security enforcement and the security receiver wishes to enforce the security promptly, the security enforcer shall have the decision to enforce the security. However, if the security receiver agrees to delay the enforcement, he or she shall notify, in writing, that there has been no ground to enforce the security and it shall be decided that there is no ground to enforce the security and the consent of the security receiver shall be recorded in the decision.

In the case where there is no ground for the enforcement of the security, the security enforcer shall decide that there is no ground for the enforcement of the security.

The decision shall be made in writing and shall consist of the fact conclusion, relevant laws, and reasons for consideration, signature of the security enforcer and the date of the decision.

Section 68. The security enforcer shall complete the consideration of a request to enforce the security within fifteen days as from the first day of fact inquiry.

Section 69. The security enforcer shall inform, in writing, the decision under section 67 to the debtor, the security provider, security receiver and other creditors who have the preferential rights over the assets used as the security so far as they are appeared in the registry evidence via registered mail or other means which illustrate that the receiver has received the notification. In the case of the decision to enforce the security, the security enforcer shall notify, in writing, such decision to the relevant registration officer, Registrar, or the Registrar of juristic person.

Upon receiving the decision under paragraph one, the relevant registration officer, Registrar, or the Registrar of juristic person shall promptly record the decision in the registration.

Section 70. No person shall object the decision under section 67 except in the case where the fact inquiry does not comply with the rules and procedures under section 66 or the decision is deficient in the fact or law in the important context.

The person who objects the decision under paragraph one shall submit a request to the Court within fifteen days as from the date of receipt of the decision.

The objection under this section shall not be a reason for the stay of execution of the security enforcement under the decision to enforce the security.

Upon receiving the request under paragraph two, the Court may prescribe the person who submitted the request to place a levy or to provide the security for the amount as the court deems appropriate. In the case where the person submitting the request fails to place the levy or the security as prescribed by the court, the court shall dismiss the request.

The Court shall specify the date for consideration under paragraph two promptly and shall consider such request continuously every day until the completion of the consideration and shall issue the decision or order except in the case of *force majeure*.

In the case where the court deems that there is a ground for objection under paragraph one, the court may decide to, partly or wholly, withdraw the decision under section 67. In this regard, the court may prescribe the security enforcer to reconsider the request for security enforcement which was withdrawn by which the provisions of section 68 and section 69 shall, *mutatis mutandis*, apply to the consideration of the request for the security enforcement which was withdrawn or in the case where a witness as appeared in the case file is sufficient for the consideration, the court may rule to amend and issue an order as deemed appropriate.

In the case where the Court sees that there is no ground for objection under paragraph one, the Court may dismiss the request.

The Court's ruling or order under this section is final.

Section 71. In the case where the security enforcer decided to enforce the security, the powers and responsibilities in managing the operation of security of the security provider shall be ceased and such powers and responsibilities and all rights under the law of shareholders or partnerships of the security provider in the operation which is the security except for the right which will receive dividend shall be the security enforcer promptly. No debtor under other creditors confiscate or seize the operation which is used as the security but such creditor shall inform, in writing, the security enforcer to divide the assets or money from the disposal of such operation.

Section 72. Within seven days as from the date of the decision to enforce the security, the security provider shall deliver the operation which is used as the security, stamp, accounting book, and documents relating to the assets, debts including the rights relating the business operation which is used as the security to the security enforcer except it can be proved that he or she is unable to undertake such operation due to *force majeure*. In such case,

CHAPTER VII

EXTINGUISHMENT OF A BUSINESS SECURITY AGREEMENT

Section 80. A business security agreement shall extinguish upon:

- (1) the secured debt extinguishes for any other reasons but the statute of limitation;
- (2) the security receiver and security provider agree, in writing, to terminate the business security agreement;
- (3) the property provided as security is released;
- (4) the property provided as security is disposed in the course of enforcement of security or when the property is released to the right of the security receiver.

Section 81. The security receiver may enforce the security even if the secured debt expires in accordance with the statute of limitation but shall not enforce the unpaid interest of more than five years under the business security agreement.

CHAPTER VIII

PENALTIES

Section 82. Any security provider or security receiver presents a false statement or fails to disclose the fact during the process of registration under section 16 or the application for registration under section 17 or application for amendment of registration under section 20 or application for the termination of registration under section 21 or the process under 51 or the report of the event under section 72 paragraph one shall be liable to an imprisonment for a term of not exceeding three years or to a fine of not exceeding three hundred thousand Baht or to both.

Section 83. Any security receiver who fails to comply with section 20 paragraph one or paragraph two, section 21 paragraph one, section 40, section 43 paragraph one or section 44 paragraph one shall be liable to a fine of not exceeding one hundred thousand Baht.

Any security receiver who commits an offence under paragraph one dishonestly shall be liable to an imprisonment for a term of not exceeding two years or a fine of not exceeding two hundred thousand Baht or to both.

Section 84. Any security provider who fails to comply with section 20 paragraph two, section 24, section 25 paragraphs one or section 72 paragraph one, or violates section 38 paragraph one, or section 65 shall be liable to a fine not exceeding one hundred thousand Baht.

Any security provider who commits an offence under paragraph one dishonestly shall be liable to an imprisonment for a term of not exceeding two years or a fine of not exceeding two hundred thousand Baht or to both.

Section 85. Any security provider who fails to comply with section 21 paragraph one shall be liable to a fine not exceeding one hundred thousand Baht.

Section 86. Any security provider who damages, depreciate the value, or makes useless, moves, hides, or transfers to other persons the property provided as security in good faith resulting in the security receiver not being able to enforce the security in whole or in part shall be liable to an imprisonment for a term not exceeding two years or a fine of not exceeding two hundred thousand Baht or to both.

Section 87. Any security receiver presents a false statement or conceals the truth in the request for the court to enforce the judgment enforcing the security under section 46 or in reporting the security enforcer to decide on the security enforcement under section 63 shall be liable to an imprisonment for a term not exceeding three years or a fine of not exceeding three hundred thousand Baht or to both.

Section 88. Any security provider who delivers or presents a false mark, accounting book and document relating to property, obligations including rights relating to the property provided as security to the security receiver or security enforcer shall be liable to an imprisonment

for a term of not exceeding two years or a fine of not exceeding two hundred thousand Baht or to both.

Section 89. Any security receiver or security enforcer who knows or obtains the information or secret in operating a business or other information of the security provider which is an information or secret which under the normal behavior or the security provider he or she shall not reveal and discloses or uses such information or secret for their own benefit or others shall be liable to an imprisonment for a term of not exceeding one year or to a fine of not exceeding one hundred thousand Baht or to both except if it is a disclosure for the purpose of performance of duty as prescribed by law or for the purpose of an investigation or consideration or disclosure upon the consent of the security provider.

Any person knows or obtains the secret from the person under paragraph during the performance of official duty or investigation or case consideration and discloses such information or secret in the matter which is likely to damage a person shall be liable to the same penalty.

Section 90. Any security enforcer who commits an act or fails to perform the duty dishonestly or commits a violation or fails to comply with the provision of this Act with the purpose to cause a damage to the security provider or security receiver shall be liable to an imprisonment for a term of not exceeding two years or to a fine of not exceeding two hundred thousand Baht or to both.

Section 91. The Settlement Committee appointed by the Minister shall have the power to settle all the offences under this Act by way of fine. In this regard, the Settlement Committee as appointed by the Minister shall consist of three members and one of the members shall be an official under the Criminal Procedure Code.

When an offender pays the fine in accordance with the fine settled within the prescribed period which shall not exceed thirty days, the case shall be deemed to be ceased under the Criminal Procedure Code.

Countersigned by
General Prayut Chan-O-Cha
Prime Minister

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RATE OF FEES

- (1) the registration of business security agreement:
 - (a) in the case where a property provided as security is a plot of land, the fee shall be the same as the mortgage registration;
 - (b) in the case of other properties other than (a) and operation, it shall not be more than two percent of the amount of money agreed to use the property as security but shall not exceed 200,000 Baht;
- (2) the amendment of the amount of money agreed to provide the property as security shall not exceed two percent of the amount of money agreed to provide the property as security but shall not exceed 200,000 Baht;
- (3) the amendment of the registration of business security agreement except for the amount of money agreed to use the property as security each 500 Baht
- (4) the termination of the registration of business security agreement each 500 Baht
- (5) issuance of evidence registration each 500 Baht
- (6) the inspection of the registration record each 100 Baht
transferring of data from the computer system each 2,000 Baht
- (7) copying data of the length of record for no more than 200 words each 1 Baht
- (8) license each 20,000 Baht
- (9) license extension fee each 10,000 Baht
- (10) license replacement each 5,000 Baht

“record” under (7) means a unit of the details stored in the database representing in words of each sentence. In this regard, any record with the length of more than two hundred words, every two hundred words shall be calculated as one record and the remaining shall be calculated of one record.