

## Reforming the Role of Auctioneers in Mortgage Execution in Indonesia: Legal Reform, Governance Transformation, and Its Contribution to Macroeconomic Resilience and Inclusive Institutions

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### **Abstract**

*This study analyzes the current Indonesian auction system, focusing on execution auctions of mortgage rights. It identifies three key issues: a competence gap among State Auction Officials, where most lack legal backgrounds unlike their more legally proficient private counterparts; a substantial fiscal burden on the state due to a high volume of legal disputes and service inefficiencies; and a lack of legal certainty for auction winners. Using a normative juridical research method, the paper proposes a Hybrid Auction Authority Model (Delegative + National Certification). This model would allow the Directorate General of State Assets Management (DJKN) to remain the primary regulator while delegating the authority for complex execution auctions to certified private professionals, prioritizing notaries. The proposed reform, grounded in Max Weber's meritocracy theory and Hans Kelsen's pure theory of law, aims to enhance service efficiency, accelerate the resolution of non-performing loans, optimize state revenue, and strengthen governance by creating a more transparent and accountable system, thereby supporting national economic stability and regulatory transformation..*

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## INTRODUCTION

One of DJKN's strategic policies as stated in the DJKN Road Map for 2019-2028 is to provide quality auction services as a trusted service institution in Indonesia (Ministry of Finance DJKN: 2019). This service improvement is sought by ensuring that Auction Officials have adequate competence, especially in the legal field, given the current economic complexity and globalization. Auction is defined as the open sale of goods with an increasing or decreasing bid, which must be done in the presence of an Auction Officer as a typical form of sale and purchase agreement (Lukman, Gilza Azzahra, et al: 2025)

In Indonesia, Auction Officials are divided into two main categories, namely Class I Auction Officials, who are State Auction Officials, and Class II Auction Officials, or Private Auction Officials. Class I Auction Officials have the authority to conduct all types of auctions, including execution, non-execution, and voluntary auctions. On the other hand, Class II Auction Officials are only authorized to carry out voluntary auctions (Maulida: 2025). To carry out this task, an Auction Officer must have a strong legal knowledge because auction is a legal activity that includes a sale and purchase agreement, transfer of ownership rights, and issuance of an auction deed. Especially in the auction of the execution of the object of the right of dependency, the Auction Officer is required to analyze legal documents such as credit agreements, deeds of right of dependency, and certificates of right of dependency. They must also be able to make decisions based on the principles of civil law and issue auction deeds that serve as a transfer of rights. This

legal knowledge is very important because the auction of the execution of the object of the dependent rights is a legal action that is full of legal knowledge, especially treaty law.

However, data on the achievement of national auction performance in 2024 shows that there is a competency imbalance between State Auction Officials and Private Auction Officials. Of the 320 Class I Auction Officials, only 35% have a legal education background, while the rest come from various other fields such as economics, social, and engineering. This condition is very different from Class II Auction Officials. Of the 210 Private Auction Officials, 197 people have a background in legal education, and 72% of them are Notaries (Ministry of Finance of the Republic of Indonesia: 2025), who are scientifically very competent in the legal act of sale and purchase agreements. Scientifically, Private Auction Officials are considered more qualified in analyzing agreement legal documents, conducting multidisciplinary studies, and making auction deeds. However, Minister of Finance Regulation Number 122 of 2023 does not authorize execution auctions to Private Auction Officials, even though their competence is more appropriate for this type of auction.

According to the sociological theory of Max Weber, an effective and fair legal system requires professional human resources with appropriate educational qualifications (Ali: 2023). Based on data on the realization of national auction performance in 2024, auctions in Indonesia reached 79,465 frequencies, dominated by execution auctions of 58,426 frequencies. The large quantity of execution auctions often triggers lawsuits due to public dissatisfaction. Data from the DJKN Legal Aid System Application recorded 6,375 execution auction cases in court from 2022 to 2024, with 94% of them, or 6,000 cases, related to the auction of execution of objects of dependents. Auction applications have also not been fully served effectively by DJKN, with 13,540 outstanding applications as of December 2024. This is due to the limited number of Class I Auction Officials which are only 320 people and 71 State Wealth and Auction Service Offices (KPKNL) throughout Indonesia.

The country's fiscal burden is also an important consideration. Although the auction of the execution of the object of the dependent rights brings in state revenues such as Non-Tax State Revenue (PNBP), Income Tax, and Land and Building Rights Acquisition Duty (BPHTB), this revenue is eroded by the fiscal burden that must be borne by the state to handle the auction lawsuit case. For example, handling cases at the DJKN Headquarters, one regional office, and five KPKNL alone will cost a total budget of more than IDR 1.7 billion in 2024. If the execution auction activities are delegated to the private sector, this fiscal burden can shift, and the state can get three main benefits: increased economic growth through the extension of PNBP, budget efficiency, and increased popularity of auctions as a buying and selling instrument that is able to accommodate the interests of the community.

Auction officials are categorized as public officials whose legal product, namely auction minutes, is an authentic deed bound by civil law (Turnip: 2025). Therefore, auction disputes are examined in the district court, not the state administrative court. Auction Officials should not be in any of the branches of state power, such as the executive, legislative, or judicial, in order to remain neutral in carrying out their duties. Hans Kelsen in his pure legal theory also emphasized that law must be separated from personal or political interests. State involvement in business can create conflicts of interest that undermine the objectivity and justice of the law. The Auction Bill that is currently being drafted by DJKN, as well as the Minister of Finance Regulation Number 122 of 2023, are considered to have not reflected justice for the private sector and the community (Amin:2024), among other things, because it does not delegate the authority to auction the

execution of the object of dependency to the Private Auction Official. In fact, if this authority is given to Notaries who number 21,000 people, the needs of auction services in Indonesia can be served more effectively, especially in resolving bad loans that have an impact on national economic resilience.

Although the delegation of execution auction authority to Notaries is promising in terms of legal competence, there are several risks and concerns that need to be considered. First, there is a conflict of interest because the Notary plays the role of the deed maker and executor of the execution auction, which can cause partiality problems. Second, the need for large-scale regulatory reform, because the current law does not provide such authority and this change requires a political cross-law revision. Third, public control and accountability that requires a strong supervisory system and complaint mechanism. Fourth, the technical capacity and ethics of the Notary profession which do not all have the same integrity and capacity, as well as the internal supervision system that is not as strict as other countries such as Australia and the United States. In summary, auction policy reform is necessary to expand the role of the legally competent private sector, but it must be done with caution to address such potential risks.

Based on the above background, this research will focus on the policy of delegating auction authority for the execution of objects of dependency to Private Auction Officials can be implemented to address the problem of competence gap of State Auction Officials, high number of lawsuits, and state fiscal burdens, while minimizing the risk of conflicts of interest and accountability challenges that may arise.

## METHODS

The research method applied is normative juridical, which means normative juridical legal research (or often called doctrinal law research) can be briefly understood as research that traces the existence of law in a particular jurisdiction. The researcher in this case seeks to collect and then analyze legal regulations and related legal norms (Solikin, 2021). This is usually done by reviewing other sources such as journal articles or other writings that comment on laws and regulations (Tan, 2021).

## RESULTS AND DISCUSSION

### Three Pillars of Problems in the Current Auction System

#### 1. Competency and Human Resources Gap

The implementation of the HT Execution Auction is a very complex legal action. Auction Officials are required to analyze legal documents such as credit agreements, Deeds of Grant of Dependent Rights (APHT), and Dependent Rights certificates. This action requires a deep understanding of legal science, especially treaty law (Kumala: 2023), civil law, and guarantee law. However, DJKN's internal data in 2024 reveals a significant contradiction. Of the 320 Class I Auction Officials, only 35% have a legal education background. The rest come from various disciplines such as economics, social, applied science, and engineering. This situation is very inversely proportional to the condition of Class II Auction Officials who almost all (around 92%) have a legal education background, even 72% of them are notaries.

Notaries, as Public Officials, are professionally trained and tested to create authentic deeds that have perfect evidentiary power. Their professional qualifications include the ability to analyze the validity of an agreement (Article 1320 of the Civil Code), and this expertise is

particularly relevant to the substance of an execution auction. This difference is not just a matter of educational degrees, but a matter of tested and relevant professional qualifications. This competency gap creates a risk of formal defects in the auction document, which is often the main trigger for lawsuits. A mismatch between the lawsuit from the office and the professional qualifications possessed by the majority of the assigned officials can erode public confidence in the integrity of the auction process.

## **2. State Fiscal Burden Due to Litigation and Service Inefficiencies**

The high frequency of execution auctions held by State Auction Officials is directly proportional to the high number of lawsuits filed by dissatisfied people. Based on data from the DJKN Legal Aid System Application, there were 6,375 auction cases in court from 2022 to 2024, of which 94% or around 6,000 cases were related to the Auction of Execution of Dependent Rights.

This high litigation rate creates a substantial fiscal burden for the state. The handling of auction cases at the DJKN Head Office, one Regional Office, and five KPKNL alone has spent a budget of IDR 1,706,520,000.00 in 2023. This figure only includes direct costs from some DJKN work units. On the other hand, the cost of a penjar (down payment) for a single execution case in court can reach tens of millions of rupiah, which is between Rp21,135,000 to Rp23,255,000. If these thousands of cases continue to the court, the total cost borne by the state (through the judicial system) and the community (through the cost of the case) is much greater than that reported by the DJKN.

In addition, the current system is not able to serve auction requests effectively. With a limited number of Class I Auction Officials (320 people) and only 71 KPKNL in all of Indonesia, there are 13,540 outstanding auction applications as of December 2024. The inability of DJKN to process auction applications in a timely manner creates a detrimental chain effect. This delay delays the settlement of bad loans, which can then trigger lawsuits, and ultimately add to an inefficient fiscal burden. Instead of accelerating economic recovery, the current system creates negative synergies that slow down capital turnover and burden the state budget.

## **3. Post-Auction Legal Uncertainty**

The high number of lawsuits not only has implications for fiscal and efficiency aspects, but also creates legal uncertainty that is detrimental to auction winners. Although the Grosse Auction Minutes have the same executory power as a court ruling, the auction winner often faces a formidable challenge to control the auction object he has purchased. This is due to the refusal of the debtor or third party who still controls the collateral object. The court cases show that many lawsuits are filed to delay or even cancel the execution of the auction. This situation forced the winner of the auction to reapply for an execution of vacate to the courts, a process that took time, cost and involved the security forces. This suggests that the executive power promised in the law does not automatically guarantee certainty for buyers.

The problem lies not only in the formal legality of the auction process, but in the inability of the system to ensure effective execution on the ground. This damages the image of auctions as a safe and trusted buying and selling instrument, and shifts the burden and risk from government auction institutions to buyers.

## **Legal Reform, Governance Transformation, and Contribution to Macroeconomic Resilience and Inclusive Institutions**

To formulate sustainable solutions, it is important to return to the relevant theoretical foundations. Hans Kelsen's Pure Theory of Law provides a very relevant framework for thought. Kelsen argued that law should be separated from morality, politics, and self-interest to guarantee objectivity and justice. In this context, the state, as a rulemaker (regulator), should not be directly involved in the implementation of the rule as an executor if it has the potential to give rise to a conflict of interest.

The current position of the State Auction Officer (PL I), who is part of the executive (Ministry of Finance), and at the same time acts as the auction implementer, creates a real potential conflict of interest. As a government agency, DJKN is bound by performance and bureaucratic targets, which may not always be in line with the principles of neutrality and objectivity required in a civil legal action.

The delegation of execution auction authority to the independent private sector will reinforce the principle of neutrality put forward by Kelsen, ensuring that the auction process is not influenced by political or bureaucratic interests, but is purely based on applicable legal principles. In addition, Max Weber's Meritocratic Theory and sociological construction emphasize that an effective legal system requires professional human resources and adequate expertise, as evidenced by educational qualifications appropriate to the position held.

The competency gap described earlier is a violation of this principle. The application of the principle of meritocracy is the key to overcoming problems caused by patronage or politicization in the bureaucracy. By opening this public role to professionals who have been tested for their competence, the state not only improves the quality of services, but also strengthens good governance and public trust in the integrity of the auction system.

Based on the analysis of the problems, this research proposes a realistic and adaptive reform model for Indonesia, namely the Hybrid Auction Authority Model (Delegative + National Certification). The main concept of this model is that DJKN remains the owner of the auction authority and the main regulator, who has the task of formulating policies, setting standards, and conducting supervision. However, the technical execution authority of the auction, especially for complex Auctions of Execution of Dependent Rights, will be delegated to professional Auctioneers from the private sector who already have national certification. For its implementation, this model can be divided into two phases, namely: Transition Phase – Notary as Initial Priority: In the initial stage, notaries are prioritized to become professional Auctioneers. The reason behind this priority is because notaries already have adequate legal competence, a large number ( $\pm 21,000$  people), and a wide spread throughout Indonesia. They are also already subject to the Notary Profession Act and the professional code of ethics, which provide a solid foundation for accountability. However, to prevent automated role conflicts, they must still take special training and pass the auctioneer's national certification focusing on Auction guarantee and execution law.

The second phase is the Development Phase – Opening New Career Paths: Over a period of 3 to 5 years, the system will be expanded to accommodate other legal professions, such as advocates and PPATs, as well as property practitioners and academics. This will open up new

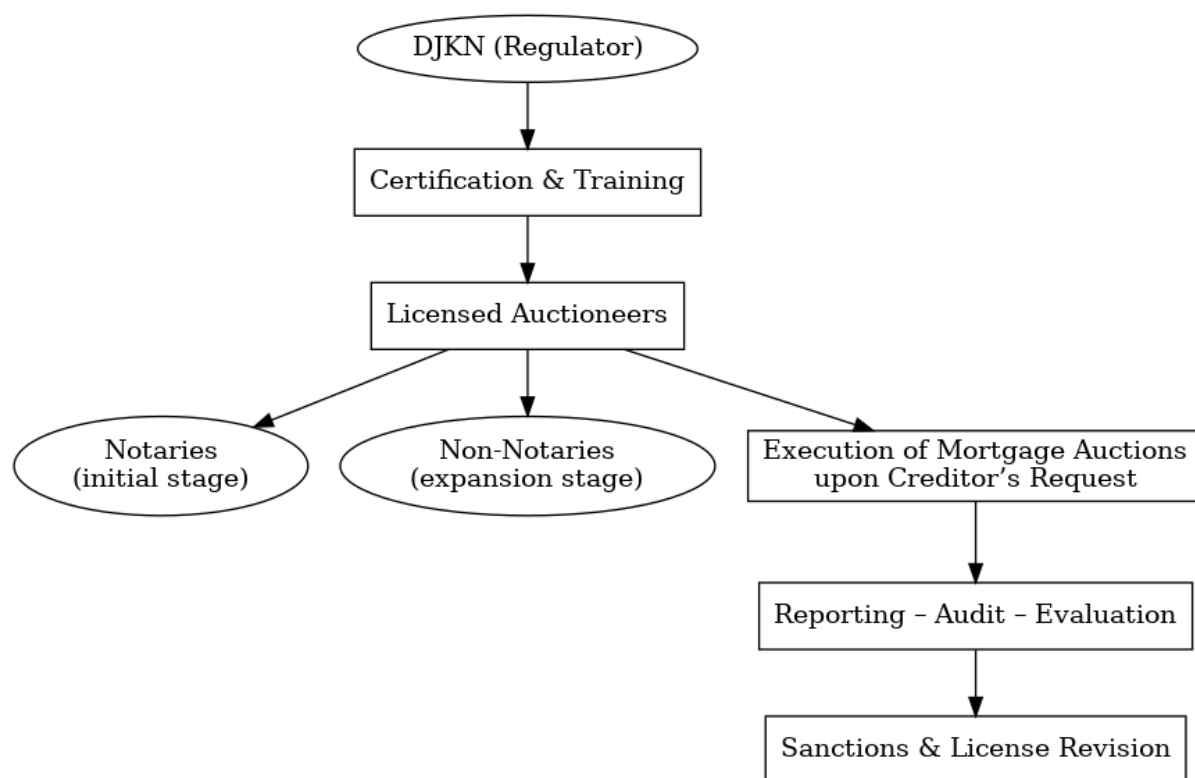
competency-based career paths, creating a broader and more diverse ecosystem of Certified Auctioneers.

### Implementation of the National Licensing and Supervision System

To guarantee quality and accountability, this model requires a structured licensing and oversight system. The design includes:

1. **Issuance of Licenses:** Licenses will be issued by the Ministry of Finance through DJKN, in collaboration with the Ministry of Law and Human Rights and related professional associations such as the Indonesian Notary Association (INI) and the Association of State Auction Officials.
2. **Validity and Renewal:** The license will have a validity period, e.g. 3 years, and can be renewed after passing a re-examination or recognition. This ensures that professional auctioneers are always updated on their knowledge.
3. **Unified Database:** A national database with a unique license number was built, which allows for digital reporting and provides transparency to the public regarding the status and performance of each auctioneer.
4. **Oversight Mechanisms:** Oversight will be conducted in a structured manner through compliance audits, ethics enforcement, and robust consumer protection mechanisms, such as those implemented in Australia and the United States.

### IMPLEMENTATION SCHEME



### Economic and Fiscal Implications

These reforms have significant economic and fiscal implications. First, by delegating auction authority to competent and large number of private professionals, the execution auction process can be accelerated and evenly distributed throughout Indonesia. This is crucial to accelerate the recovery of bad credit in the financial system, which in turn will strengthen financial sector stability and support national economic recovery.

Second, the hybrid model will optimize state revenue. Currently, auction activities generate Non-Tax State Revenue (PNBP) from auction duties, as well as income tax and BPHTB. With delegation to the private sector, the number of auction frequencies carried out will increase significantly, thereby expanding the PNBP base without having to increase the state's fiscal burden for auction operations. Furthermore, the enormous fiscal burden due to the handling of auction disputes in court will shift to the private sector. This frees up the state budget to be allocated to other more productive development programs.

### **Social Implications and Governance**

From a social perspective, the delegation of authority to notaries totaling 21,000 people will make auction services more accessible to people in all corners of Indonesia. This faster and more equitable access will increase the popularity of auctions as an efficient and trusted buying and selling instrument.

In terms of governance, this model directly strengthens the principles of good governance and inclusive institutions. By separating the roles of regulators and executors, these reforms will create a more transparent and accountable system. Access to the public's role as an auctioneer will be open fairly and professionally to individuals who have competence, not solely based on bureaucratic positions. This is in line with the concept of meritocracy which is the foundation of a professional modern bureaucracy.

This reform proposal has a strong connection with the National Long-Term Development Plan (RPJPN) 2025–2045. In particular, this model contributes to the achievement of Mission 3 of the RPJPN: Transformation of Regulatory Governance with Integrity and Adaptation. Reform of auction law through the separation of roles and involvement of legal professionals is a concrete effort to create a system that is more adaptive and responsive to market complexity.

Apart from this, this reform also has a strong connection with Mission 4 of the RPJPN: Justice Law and Macroeconomic Stability. By accelerating the settlement of bad loans through an efficient and fair auction mechanism, these reforms will strengthen financial sector stability and support sustainable national economic growth.

### **CONCLUSION**

Based on the above discussion and analysis, this study concludes that the auction system in Indonesia currently faces three main problems: the competence gap of State Auction Officials, fiscal burdens and service inefficiencies caused by the high number of lawsuits, and post-auction legal uncertainty. To overcome this problem, this article proposes a hybrid auction authority model, in which DJKN continues to function as a regulator, but delegates the authority to auction the execution of the object of dependency rights to the private sector, especially Notaries who are considered more competent in the field of treaty law. With this reform, it is hoped that there will be an increase in service efficiency, an acceleration of the settlement of bad loans, the optimization

of state revenue, and the strengthening of more transparent and fair governance, in line with national development goals.

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