

THESIS TITLE	LEGAL PROBLEMS ON CAR MORTGAGE PRINCIPLE
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ABSTRACT

At the present, most of cars leasing has always been done in the form of hire purchase agreements. Such agreements shall allow a purchaser to take advantage from the car without delivering it to creditors. As there is actually Motor Vehicle Act B.E. 2522 (1979) Amendment (No.15) B.E.2551 (2008), the registered cars, trailers, rollers and tractors can be the assets which are able to be a security for mortgage.

The Motor Vehicle Act B.E. 2522 (1979) Amendment (No.15) B.E.2551 (2008), has specified a car mortgage just only in the Section 17/1. There are no clear rules for mortgage procedure. The general provisions of mortgage are in the Civil and Commercial Code, Chapter 3(III), Title 12 from Section 702 to Section 746. The car is an asset that can be used as a vehicle for transportation, unloading cargos and constructions, etc.. As a result, the Motor Vehicle Act B.E. 2522 (1979) has been enacted to be specific provisions of car, but such act is only the provisions to govern using car and collecting the yearly tax. There is currently no mortgage of the car provision. In this respect, we need to study and analyze the criteria for a mortgage of car to find out solution of the problems.

From the study, there are several problems of the car's mortgage such as (i) The problem with the legal status of registered cars. This is because under the laws, the manual car registration, is just only legal documents that Department of Land Transportation issued to vehicles registered for the purpose of collecting annual tax. It is not the document for confirming ownership. Accordingly, there is no clear who is the real

owner of the car and it shall be the problem of the car's mortgage process. In addition, if the car is in the hire purchase agreement, whether it can be mortgaged or not and who has the right to mortgage car, including whether the car registration number obtained by the auction will be considered as security asset under the mortgage or not. (ii) If we apply the mortgage procedure in the Civil and Commercial Law for car's mortgage, such procedure may be inappropriate and quite delayed. The reason is that car is a movable property that may be damaged, lost, and depreciated easily. (iii) Transferring car problems; transferring car's ownership may be achieved by showing intention and delivering of possession. It is easy to transfer such ownership but difficult to know the real owner. (iv) Car insurance problems: if the mortgaged insured cars have an accident and there is no way to make a repair. Under the insurance law, if insurer paid the compensation to the insured, the car's residue shall be transferred to insurer under the terms of the contract, the problem arises on how should the mortgagee creditor do for mortgage enforcement. (v) The rights of car rental problem: after the mortgage enforcement, the mortgaged car may be leased out. If there is the mortgage enforcement, whether or not the lessee of such car is still entitled to possess car and between the mortgagee and the lessee, who shall have a better right?

From the above issues, there is no clear provisions that would be the guideline for the mortgage parties and the relevant official to implement and thereby there is no car mortgage at present. As there is the law to allow the car to be used as a mortgage security, this would be useful because car can be used for many business purposes. If we need to use the car as collateral by pledge, it would not allow car owner to use it for his business purpose. Therefore, the amendment on the provisions of car's mortgage, transfer of car's ownership, enforcement of car mortgage to be clear and appropriate shall be useful for car mortgage transaction.