

KEY WORD : DEBENTURE/DEBENTURE HOLDER

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Debenture is a kind of financial instrument in mobilizing funds from public for the purpose of business. It is a debt instrument issued by a company to borrow money from people, therefore the company which issues debentures is required to have a stable and reputable financial status as well as being able to provide collateral security for its holders. The provisions concerning security under the Thai law are presently insufficient to warrant the assurance of debt instrument as an evidence in borrowing monies from public to be made by a company with guarantee by its assets (both movable and immovable property) as security. Moreover, since the issuance of debentures is to make a loan from the public, there usually have many involving parties especially in the part of creditors or debenture holders. The complicated problems are likely to be incurred due to such large number of holders in using their rights for proceeding or entering into court actions in case of dispute with the debenture issuer.

In reviewing through the foreign laws concerning debentures, we found that some provision set forth therein provided conveniently to the issuance of debentures and being protected the holders of such debentures. There is one principle rule to be known as the "Floating Charge" provided its concept that a company may undertake its overall properties to be used as security without limiting its power of the management of such property. The holders of debentures will have preferential right to be repaid of debts before other non security debts. The general rules of foreign laws also provided that there must be a representative of debenture holders under the specific requirements of qualification, rights, duties and responsibility thereof. In the case that there is any court action concerning debentures, the rule has applied the methods in protecting, providing conveniently solution for interest of all debenture holders in entering into such action under their legal rights. The aforesaid principles of law are able to be modified and revised to the Thai law in the part relating with debentures in order to progressively develop the issuance of this kind of instrument as well as to protect the right of debenture holders.