

Analisis pengesahan pendirian perseroan terbatas sebagai badan hukum melalui Sistem Administrasi Badan Hukum (SABH)

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Abstrak

Adanya dugaan kasus hukum di dalam Departemen Hukum dan Hak Asasi Manusia Republik Indonesia berdampak kepada akses menuju SABH yang di non-aktifkan sehingga merugikan semua pihak tak terkecuali Notans. Tidak bisa diaksesnya SABH juga berdampak kepada para calon pendiri atau pemegang saham, anggota Direksi maupun anggota Dewan Komisaris karena nama mereka semua harus dimasukkan ke dalam SABH Adapun permasalahan yang diangkat dalam penulisan tesis ini adalah cara penyelesaian pengesahan pendirian Perseroan Terbatas sebagai badan hukum yang jangka waktunya selama 14 hari telah berakhir dikarenakan SABH tidak dapat diakses dan akibat hukum terhadap Para Pendiri atau Pemegang Saham, anggota Direksi dan Dewan Komisaris jika Perseroan Terbatas tersebut tidak dapat diakses dalam SABH.

Penelitian ini dilakukan berdasarkan penelitian kepustakaan yang bersifat eksplanatoris, yakni memberikan gambaran yang lengkap dan jelas mengenai pokok-pokok permasalahan, dapat disimpulkan Notaris harus langsung mengajukan permohonan untuk memperoleh status badan hukum kepada Menteri Hukum dan Hak Asasi Manusia setelah akta pendirian ditandatangani oleh para pihak namun dikarenakan SABH tidak dapat diakses secara online maka Departemen Hukum dan Hak Asasi Manusia memberikan pengecualian kepada Notaris mengenai jangka waktu pengesahan Perseroan sebagai badan hukum dan akibat hukum terhadap para pendiri atau pemegang saham, anggota Direksi dan anggota Dewan Komisaris yaitu selama Perseroan tersebut belum memperoleh status badan hukum dari Menteri Hukum dan Hak Asasi Manusia sebagaimana yang diamanatkan oleh UU PT maka para pendiri atau pemegang saham, anggota Direksi dan anggota Dewan Komisaris bertanggung jawab secara renteng atas perbuatan hukum yang dilakukan atas nama Perseroan sampai status badan hukum Perseroan tersebut diperoleh dari Menteri Hukum dan Hak Asasi Manusia Republik Indonesia.

.....The alleged legal case inside the Ministry of Law and Human Rights of the Republic of Indonesia has impact to access toward a non-active Legal Entity Administration System (LEAS) so that all parties without exception the Notary Public. If a Company makes legalization as a legal entity but period of 60 days as specified in Law on Limited Liability Company (UU PT) has been exceeded then the said Company's Deed of Establishment shall become invalid and its Company is dissolved by law. In addition to inaccessible LEAS also has impact to the prospect founders or shareholders, members of Board of Directors and members of Board of Commissioners because their names must be included into LEAS. Whereas the problem adapted in writing this thesis is method of resolving legalization of Establishment of Limited Liability Company as a legal entity whose duration has expired because LEAS cannot be accessed and legal consequences against the - Founders or Shareholders, members of Board of Directors and Board of Commissioners if the said Limited Liability Company inaccessible in LEAS.

This research is carried out based on explanatoiy bibliographical research, namely to give full and clear description on subject matter, so that with data obtained through primary, secondary and tertaiiy legal

materials, can be concluded that Notary Public must directly file an application to obtain a legal entity status to the Minister of Law and Human Rights of the Republic of Indonesia after Deed of Establishment was signed by the parties. but since LEAS cannot be accessed online beyond the mistake of Notary Public then the Ministry of Law and Human Rights of the Republic of Indonesia grants exception to Notary Public concerning period of the Company's legalization as a legal entity and legal consequence against the founders or shareholders, members of Board of Directors and members of Board Commissioners, namely during the said Company hasn't obtained a legal entity status from the Minister of Law and Human Rights of the Republic of Indonesia as mandated by Law on Limited Liability Company then the founders or shareholders, members of Board of Directors and members of Board of Commissioners shall be responsible jointly and severally over legal acts carried out on behalf of the Company until legal status of the said Company is obtained from the Minister of Law and Human Rights of the Republic of Indonesia.