

Peran dan tanggungjawab notaris dalam pengajuan permohonan perubahan Anggaran Dasar dan perubahan data kepada Kementerian Hukum dan Hak Asasi Manusia melalui sistem Administrasi Badan Hukum: studi kasus PT. Bukit Samudera Perkasa = Roles and responsibilities of notary in submitting request for Amendment to Articles of Association and change in data to the Ministry of Law and Human Rights through the Legal Entity Administration System: a case study on PT. Bukit Samudera Perkasa

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Abstrak

Tesis ini membahas mengenai studi kasus dari PT. Bukit Samudera Perkasa (PT. BSP) terkait dengan peran dan tanggung jawab notaris dalam pengajuan permohonan Perubahan Anggaran Dasar (AD) dan Data kepada Kementerian Hukum dan Hak Asasi Manusia (Kemenkumham) melalui Sistem Administrasi Badan Hukum (SABH). Adapun permasalahan di dalam tesis ini adalah mengenai peran dan tanggungjawab notaris dalam pengajuan permohonan Perubahan AD dan Data PT. BSP serta akibat hukum dari Akta Pernyataan Keputusan Rapat PT. BSP (Akta PKR) yang permohonan perubahannya tidak diajukan oleh notaris ke Kemenkumham melalui SABH. Metode penelitian yang digunakan dalam penulisan ini adalah yuridis normatif dengan tipologi penelitian deskriptif analitis.

Hasil dari penelitian ini adalah peran notaris dalam pembuatan akta telah dilaksanakan sesuai dengan ketentuan UUJN, sedangkan pengaksesan SABH tidak dilaksanakan. Apabila notaris terbukti melakukan kesalahan dapat dimintakan pertanggungjawaban, namun apabila alasan tidak diaksesnya SABH berada diluar kendalanya maka tidak dapat dimintakan pertanggungjawaban. Kemudian untuk akibat hukumnya, Perubahan Data tetap terjadi, sedangkan Perubahan AD tidak terjadi sehingga tidak diketahui oleh pihak ketiga dan berlaku ketentuan Pasal 56 ayat (4) dan Pasal 94 ayat (8) jo Pasal 111 ayat (8) UUPT 2007. Saran dari Penulis adalah direksi harus memberi kuasa secara rinci kepada notaris untuk pengajuan permohonan Perubahan AD dan Data, notaris harus menjalankan kewenangan serta tidak lalai, dan apabila notaris terbukti melakukan kesalahan harus dilaporkan kepada Kemenkumham melalui Tim Investigasi.

<hr>This thesis discusses a case study on PT. Bukit Samudera Perkasa (PT. BSP) in relation to the roles and responsibilities of notary in submitting request for amendment to AoA and Change in Data to the Ministry of Law and Human Rights through the Sistem Administrasi Badan Hukum (SABH). The roles and responsibilities of a notary in the event of change in data are preparing the deed and accessing the SABH. The problem that this thesis is attempting to solve concerns the roles and responsibilities of the notary in submitting a request for amendment to AoA and change in data of PT. BSP and the legal consequences of the PKR Deed of PT. BSP, the request for amendment of which was not submitted by the notary to the Ministry of Law and Human Rights through SABH. The research method applied in this writing is judicial-normative with descriptive-analytical typology method.

The result of this research is that the roles and responsibilities of notary had been carried out in accordance

with the provisions of the Notary Position Law. Meanwhile, in regard to the role of accessing SABH, the notary did not carry out his role and therefore, the notary may be held accountable in the event that he is deemed to have committed a fault. However, if the reason for failing to access the SABH is beyond the control of the notary, he will not be held accountable. As with the legal consequences, Change in Data still occurs but no amendment occurs to the AoA, therefore not acknowledged by any third party, and the provision of Article 56 paragraph (4) of the 2007 LLC Law of 2007 applies accordingly, as does the provision of Article 94 paragraph (8) jo. Article 111 paragraph (8) of the 2007 LLC Law. The writer recommends, that the Board of Directors grants more detailed power in powers of attorney, urging the notary to exercise his authority and avoid negligence, and ensuring that if the notary is proven to have committed a fault, he must be reported to the Ministry of Law and Human Rights through the Investigation Team.