

Tanggung Jawab Notaris Atas Perubahan Anggaran Dasar Perseroan Terbatas Terkait Penambahan Modal Dasar Tanpa Adanya Permohonan Persetujuan Kepada Menteri Hukum Dan Hak Asasi Manusia (Studi Kasus PT X Di Kota Bandar Lampung, Provinsi Lampung) =  
Responsibilities Of A Notary For Amendments To The Articles Of Association Of A Limited Liability Company Regarding Additional Authorized Capital Without Requesting Approval From The Minister Of Law And Human Rights (Case Study Of PT X In Bandar Lampung)

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Abstrak

Penambahan modal dasar perseroan terbatas (perseroan) seharusnya diajukan kepada Menteri Hukum dan Hak Asasi Manusia (Menkumham) oleh notaris untuk mendapatkan persetujuan, tetapi tidak demikian halnya dalam praktik dialami oleh PT X yang bergerak di bidang pembangunan, di mana Akta Perubahan Anggaran Dasar yang dibuat oleh notaris tidak dicatatkan sehingga belum ada persetujuan dari Menkumham. Sebagai akibatnya profil perusahaan tidak mengalami perubahan berdasarkan Akta Perubahan Anggaran Dasar PT X yang terakhir. Oleh karena itu, penelitian ini mengangkat permasalahan tentang tanggung jawab notaris terhadap perubahan anggaran dasar terkait penambahan modal dasar perseroan terbatas yang tidak dimintakan persetujuan Menkumham dan tindakan Majelis Pengawas Daerah (MPD) jika mendapatkan laporan tentang adanya notaris yang tidak meminta persetujuan dari Menkumham dalam perubahan anggaran dasar perseroan terbatas terkait penambahan modal dasar. Untuk menjawab permasalahan tersebut, penelitian hukum non doktrinal dipergunakan di sini. Data primer yang diperoleh dari studi di lapangan dan data sekunder yang diperoleh dari studi kepustakaan selanjutnya dianalisis secara kualitatif. Dari hasil analisis dapat dinyatakan bahwa tanggung jawab notaris dalam permasalahan ini adalah mengganti kerugian materiil yang telah dikeluarkan oleh PT X terkait Akta Perubahan Anggaran Dasar PT X yang tidak dimintakan persetujuan kepada Menkumham. Selain itu, dapat dijelaskan pula tindakan Majelis Pengawas Daerah (MPD) adalah menerima laporan yang diajukan PT X dengan syarat kelengkapan berkas dan bukti yang kuat, yang ditindaklanjuti dengan melaksanakan sidang pemeriksaan terhadap notaris yang dilaporkan, untuk mengetahui apakah ada pelanggaran yang dilakukan atas notaris tersebut. Apabila ditemukan pelanggaran oleh notaris, maka MPD akan merekomendasikan kepada Majelis Pengawas Wilayah (MPW) untuk penjatuhan sanksi berupa peringatan tertulis, tetapi apabila selanjutnya notaris tersebut melakukan kembali pelanggaran maka MPW akan merekomendasikan kepada Majelis Pengawas Pusat (MPP) untuk penjatuhan sanksi berupa pemberhentian sementara.

.....The additional authorized capital of a limited liability company (company) should have been submitted to the Minister of Law and Human Rights (Menkumham) by a notary to obtain approval, but this is not the case in practice experienced by PT X which is engaged in development, where the Deed of Amendment to the Articles of Association made by a notary is not recorded so there is no approval from Menkumham. As a result, the company profile has not changed based on the latest Deed of Amendment to PT X's Articles of Association. Therefore, this study raises the issue of the notary's responsibility for amendments to the articles of association related to the addition of the limited liability company's authorized capital for which

the Ministry of Law and Human Rights did not seek approval and the actions of the Regional Supervisory Board (MPD) if they receive a report about a notary who does not seek approval from the Ministry of Law and Human Rights in changing the budget. the basis of a limited liability company related to the addition of authorized capital. To answer these problems, non-doctrinal legal research is used here. Primary data obtained from field studies and secondary data obtained from literature studies were then analyzed qualitatively. From the results of the analysis it can be stated that the responsibility of the notary in this matter is to compensate material losses that have been issued by PT X regarding the Deed of Amendment to PT X's Articles of Association for which Menkumham did not seek approval. Apart from that, it can also be explained that the actions of the Regional Supervisory Board (MPD) are to accept the report submitted by PT X with the condition that the documents are complete and strong evidence, which is followed up by carrying out an examination session of the reported notary, to find out whether there was a violation committed against the notary. . If a violation is found by a notary, the MPD will recommend to the Regional Supervisory Council (MPW) for imposition of sanctions in the form of a written warning, but if the notary subsequently commits a violation again, the MPW will recommend to the Central Supervisory Council (MPP) for imposition of sanctions in the form of temporary suspension.