

Badan Hukum Dan Pemisahan Kekayaan Pada Permodalan Badan Usaha Milik Desa (Bumdes) Sebelum Dan Setelah Berlakunya Undang-Undang Nomor 6 Tahun 2014 Tentang Desa

(Studi di Kecamatan Bolo dan Kecamatan Sape Kabupaten Bima)

Intisari

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Badan Usaha Milik Desa (BUMDes) adalah badan usaha yang berada di Desa. Sebelum berlakunya UU Desa 2014, BUMDes adalah badan hukum berdasarkan peraturan perundang-undangan seperti ditentukan pasal 213 (1) UU nomor 32 tahun 2004. Pada penjelasan pasal 87 UU Desa 2014, BUMDes secara spesifik tidak dapat disamakan dengan badan hukum seperti perseroan Terbatas, CV dan Koperasi. Di Kabupaten Bima, BUMDes telah ada sejak tahun 2005. Tujuan penelitian ini adalah untuk menganalisis konsep badan hukum BUMDes sebelum dan setelah berlakunya UU nomor 6 tahun 2014 dan pertanggungjawaban pelaksana operasional dalam mengelola modal BUMDes.

Penelitian ini merupakan penelitian kombinasi normatif dan empiris. Penelitian dilakukan melalui penelitian lapangan dan kepustakaan atas keadaan BUMDes di masyarakat melalui wawancara dan studi dokumen. Data dari penelitian kepustakaan dan wawancara dianalisis secara kualitatif, hasil dari analisis disajikan secara deskriptif. Hasil penelitian menunjukkan bahwa, pertama, konsep badan hukum BUMDes sebelum berlakunya UU No. 6 /2014 sejak awal diatur dalam UU Pemda 2004 tidak jelas status hukumnya karena berdasarkan Perda Kab. Bima No. 5/2007, yang berbadan hukum adalah unit usaha dari BUMDes bukan BUMDes. Setelah berlakunya UU No. 6/2014, BUMDes adalah badan hukum karena memiliki unsur kekayaan terpisah, adanya tujuan tertentu, mempunyai kepentingan sendiri dan adanya organisasi yang teratur. Kedua, pelaksana operasional bertanggung jawab atas pengelolaan modal BUMDes apa bila tidak dapat membuktikan kerugian BUMDes bukan karena kesalahan/kelalaiannya, benturan kepentingan, mengurus BUMDes dengan iktikad baik, tidak mempunyai benturan kepentingan, tersebut bukan karena kesalahan atau kelalaiannya dan telah mengambil tindakan manajemen resiko.

Kata Kunci: BUMDes, Badan Hukum, Kekayaan Terpisah, Tanggung Jawab, Pelaksana Operasional

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Legal Entity and Separation of Wealth in the Capital of Village-Owned Enterprises (Bumdes) Before and After the Implementation of Law Number 6 of 2014 concerning Villages

(Study in Bolo District and Sape District, Bima Regency)

Abstract

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Village-Owned Enterprises (BUMDes) are business entities located in the Village. Prior to the enactment of the 2014 Village Law, BUMDes were legal entities based on legislation as stipulated in article 213 (1) of Law number 32 of 2004. In the explanation of article 87 of the 2014 Village Law, BUMDes specifically cannot be equated with legal entities such as Limited liability companies, CV and Cooperatives. In Bima regency, BUMDes have existed since 2005. The purpose of this study is to analyze the concept of BUMDes legal entities before and after the enactment of Law number 6 of 2014 and the operational executor's responsibility in managing BUMDes capital.

This research is a combination of normative and empirical research. The research was conducted through field research and literature on the state of BUMDes in the community through interviews and document studies. Data from library research and interviews were analyzed qualitatively, the results of the analysis were presented descriptively. The results of the study show that, first, the BUMDes legal entity before the enactment of Law No. 6/2014 since the beginning of the regulation in the 2004 Regional Government Law it is unclear the legal status and form because it is based on the Bima District Regulation No. 5/2007, legal entities are business units of BUMDes not BUMDes. After the enactment of Law No. 6/2014, BUMDes have the characteristics of a legal entity because they have a separate element of wealth, the existence of certain objectives, have their own interests and have an organized organization. Secondly, the operational executor is responsible for managing the BUMDes capital if it cannot prove the loss of the BUMDes not because of an error / negligence, conflict of interest, managing BUMDes in good faith, having no conflict of interest, not because of an error or negligence and taking risk management actions.

Keywords: BUMDes, Legal Entities, Separate Wealth, Responsibilities, Operational Executor

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