

**DIRECTOR'S RESPONSIBILITY TOWARDS FINANCIAL LOSS
SUFFERED BY STATE-OWNED ENTERPRISES (*PERSERO*)
ACCORDING TO BUSINESS JUDGMENT RULE**

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ABSTRACT

The objective of this legal research is to find out the forms of responsibilities given to the Directors of State-Owned Enterprises (*Persero*) when they conducted action that cause losses to the company. This legal research also aims to analyze the effects of business law doctrine, such as Business Judgment Rule, on the responsibility of State-Owned Directors.

To get a better understanding on the issue, this legal research compared the implementation of Business Judgment Rule in Indonesia with the implementation of Business Judgment Rule in United States. The method of this research was a normative research. The data was obtained mainly by literature research and the obtained data was analyzed using a qualitative method.

This legal research finds that there are various forms of responsibility and the responsibilities of State-Owned Enterprise directors that causes losses for the company can be classified into two, which are, responsibilities that is attached to the position and the responsibilities that given to them because of Corporate Criminal Liability. Moreover, the implementation of Business Judgment Rule doctrine in Indonesia and United States is different. The different can be seen in the initial position of the defendant, characteristic of the doctrine, focus of the doctrine and the burden of proof. Nonetheless, Business Judgment Rule doctrine can be use by the State-Owned Enterprise directors to defend themselves.

Keywords: Director's Responsibility, State-Owned Enterprise, Business Law Doctrine

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PERTANGGUNGJAWABAN DIREKSI TERHADAP KERUGIAN KEUANGAN BADAN USAHA MILIK NEGARA (PERSERO) BERDASARKAN DOKTRIN BUSINESS JUDGMENT RULE

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INTISARI

Penelitian hukum ini bertujuan untuk mengetahui bentuk-bentuk pertanggungjawaban Direksi Badan Usaha Milik Negara yang berbentuk Persero apabila melakukan tindakan yang menyebabkan kerugian bagi perusahaan. Penelitian ini juga bertujuan untuk menganalisis efek yang diberikan oleh doktrin hukum dagang, Business Judgment Rule, pada pertanggungjawaban Direksi BUMN.

Untuk mendapatkan pemahaman yang lebih jelas, penelitian hukum ini membandingkan penerapan Business Judgment Rules di Indonesia dengan penerapan Business Judgment Rules di Amerika Serikat. Metode yang digunakan dalam penelitian hukum ini adalah normatif. Data yang didapat sebagian besar adalah dari penelitian kepustakaan. Data yang didapatkan kemudian dianalisis dengan menggunakan metode kualitatif.

Penelitian hukum ini menyimpulkan bahwa ada berbagai macam bentuk tanggungjawab Direksi serta pertanggungjawaban Direksi BUMN yang menyebabkan kerugian bagi perusahaan dapat digolongkan menjadi pertanggungjawaban yang melekat pada jabatan direksi, serta pertanggungjawaban yang didapatkan dari Pertanggung Jawaban Korporasi. Kemudian, penerapan doktrin Business Judgment Rules, di Indonesia dan Amerika Serikat memiliki beberapa perbedaan. Namun, bagaimanapun, doktrin Business Judgment Rule dapat digunakan sebagai pelindung dari keputusan Direksi BUMN di Indonesia.

Kata Kunci: *Pertanggung Jawaban Direksi, BUMN, Doktrin Hukum Dagang*

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