

**As A Result of the Law Change In the Form of the Company Limited (PT) Become A  
Regional Company (PERSERODA)  
(Case Study in the South Tangerang Development Area )**

<sup>1</sup>Ukas Erawan<sup>2</sup> Simrenjit<sup>3</sup> Dewi Yuliavianti

<sup>1</sup>[ukaserawan@gmail.com](mailto:ukaserawan@gmail.com) <sup>2</sup>[simrenjit08@gmail.com](mailto:simrenjit08@gmail.com) <sup>3</sup>[dewijuliaaa07@gmail.com](mailto:dewijuliaaa07@gmail.com)  
PAMULANG UNIVERSITY

**ABSTRACT**

Change form of legal entity company Limited South Tangerang Investment Development has become a South Tangerang Investment Development Regional Company significant impact in matter law company . Change This involves complex legal processes and has diverse implications , starting from aspect ownership , responsibility answer law , up to protection interest public . Study This aim For investigate consequence law from change this , incl change in structure company , liability law , and its impact towards stakeholders. Through approach analysis law and review literature , research This identify consequence emerging law from change form of legal entity This as well as the implications to practice business and environment law in Indonesia. For answer problem research , research This use type study law normative with approach laws , approaches concept , and doing interview with agency related . Data used is secondary data form primary, secondary and tertiary materials , which are obtained through study literature ( *library research* ) , research conducted by researchers previous . Result of study This show that . The legal standing of Regional Owned Enterprises (BUMD) which have not changed form to Perumda or Persiroda is that BUMD cannot carry out legal actions that should be carried out by a legal entity. This is in accordance with the provisions regulated in Article 402 paragraph (2) of Law Number 23 of 2014 concerning Regional Government. then the operational legal basis for adjusting the legal form of BUMD is the transitional provisions as intended in Article 405 of the Regional Government Law jo. Article 140 PP BUMD, namely all provisions of statutory regulations which are implementing regulations of Law 5/1962 and implementing regulations relating to BUMD are declared to still be valid as long as they have not been replaced and are not contradictory with provision in the Regional Government Law and PP BUMD. As well as procedures change in company status area become the newest form of BUMD that is with follow the process for establishing a BUMD in the Regulations Government Number 54 of 2017 concerning BUMD.

**Keywords :** Because of law,Form of Legal Entit, Regional Development Company.

**INTRODUCTION**

**A. Background Problem**

The concept of sustainable development with an environmental perspective is a development concept that is very commonly used and even covers almost all countries. The constitutional mandate in article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia explicitly states that "the national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability,

environmental insight, independence, and by maintaining the balance of national economic progress"<sup>1</sup>

Autonomy regions in Indonesia are a concept applied to give authority more to areas to organize and manage public interest in accordance with individual potential and needs. According to Bagir Manan, an autonomy area is independence to organize and manage affairs (home the stairs) itself.<sup>2</sup> This draft reflects an area for managing government and public services in a way independent without direct hand from the government center, with the objective to increase efficiency and effectiveness of government as well as the well-being of the local community. An autonomy area is an area for its own authority in taking related decisions with local interest, including in the field of finance, administration and development.

Following up on this, Law Number 5 of 1962 concerning Regional Companies was born as the beginning of the establishment of regional government-owned enterprises. Based on Minister of Home Affairs Regulation (Permendagri) No. 3 of 1998 concerning the Legal Form of BUMD, BUMD is divided into two forms, namely Regional Companies and Limited Liability Companies, so that the term Regional Company has reappeared, and if you look at the use of the term, Minister of Home Affairs Regulation Number 3 of 1998 classifies Regional Companies as one form of BUMD.

Law 23 of 2014 concerning Regional Government resulted in the repeal and invalidation of several statutory regulations. These laws and regulations include Law Number 5 of 1962 concerning Regional Companies, and Law Number 32 of 2004 concerning Regional Government.

In accordance with Law No. 23 of 2014 concerning regional government, regional governments do not have to have BUMD, but BUMD can be a consideration for regions to become a means of providing services to the community. BUMD can be established by the regional government and its establishment is stipulated in Regional Regulation Article 331 number 1 and number 2 of the Regional Government Law. Based on the Regional Government Law Article 331 number 3, BUMD itself is divided into two types, namely regional public companies (Perumda) and regional public companies (Perseroda).

Perumda is a BUMD where the entire capital is owned by one region only and is not in the form of shares.<sup>3</sup> Perseroda is a BUMD where the capital is divided into shares owned by several regions or cooperatives.<sup>4</sup> In managing Perumda and Perseroda, a management concept is needed that is in accordance with the characteristics and type of BUMD itself. This is the duty of the Regional Head as the holder of power in BUMD. In accordance with its authority, each regional government is obliged to carry out activities aimed at providing services to the community, especially services for their basic needs.

The formation of this new autonomous region, a division of Tangerang Regency, was carried out with the aim of improving services in the fields of government, development and society and to provide the ability to utilize regional potential to accelerate the realization of community welfare.

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<sup>1</sup> Anshori Ilyas et al., *Synergy Arrangement Licensing Management Natural Resources For Realize Concept of Sustainable Development*, Environmental Law Development, *Journal*, Volume 4 Number 2, April 2020,

<sup>2</sup> Bagir Manan, *Relations Between the Center and the Regions According to the 1945 Constitution*, (Jakarta: Pustaka Sinar Harapan, 1994), p. 21.

<sup>3</sup> Deddy Supriyadi et al., *Autonomy Maintenance Regional Government*, PT. Gramedia Pustaka Utama, Jakarta. 2002. p. 38

<sup>4</sup> *ibid*

economic development of South Tangerang City is not Can separated with role The South Tangerang City Government is at the forefront in realize well-being community in the South Tangerang City environment . Community welfare is the goal of every government, both central and regional governments. This is in accordance with the mandate of Article 33 of the Constitution of the Unitary State Republic of Indonesia in 1945 (UUD NKRI 1945 ). In line with this, regional governments can establish Regional Owned Enterprises (BUMD).

In order to increase local revenue, the City of South Tangerang has had a BUMD since 2014 called the South Tangerang Investment Development Limited Company (PT. PITS). PT. PITS is a South Tangerang City BUMD which was established on January 21 2014 with a Deed of Establishment made before Notary Titi Sulistyowati in South Tangerang City based on South Tangerang City Regional Regulation No. 2 of 2013 concerning the Formation of Regional Owned Enterprises (BUMD).<sup>5</sup>

Basic capital for the establishment of PT. PITS is based on Regional Regulation Number 2 of 2013 concerning the Formation of Regionally Owned Enterprises, where the company's authorized capital is IDR 88,000,000,000 ( *eighty eight billion rupiah* ) divided into 99% shares owned by the South Tangerang City Regional Government and 1% percent in the name of "Praja Mandiri Prosperous Cooperative". PT. PITS has been established for 9 (nine) years and has changed its Board of Directors several times. PT. PITS as a regionally owned company has launched its own development in the form of a *holding company* which works to manage investment, infrastructure and real sector business related to regional development such as providing drinking/clean water, market management, information technology infrastructure development and traditional market management.<sup>6</sup>

To achieve various goals of corporate institutions, PT. PITS as a BUMD can form a subsidiary company ( *Subsidiary Company* ) as mandated in article 7 paragraph (1) of South Tangerang City Regional Regulation Number 2 of 2013 concerning the Establishment of BUMD. For this matter PT. PITS, forms divisions which can later become a reference for initiating the formation of subsidiaries, as follows:

1. In 2016 PT. PITS has formed a Drinking Water Management Division with Directors' Decree Number 014/ KepDir -PITS/XII/2016 with Plt . Head of Division Mr. Ruhamaben .
2. In 2019 PT. PITS has establishing a Market Management Division based on the Board of Directors' Decree Number : 696/SK/NUS.01/IX/2019 concerning Establishment of Market Management Division and start active running at the start 2020 .
3. In 2016 PT. PITS has establish a Management Division Rubbish based on the Board of Directors' Decision Number : 006/KEPDIR-PITS/X/2016.
4. In 2019 PT. PITS has forming a Market Management Division and a Management Division Information Technology (IT).
5. In 2022 PT. PITS form child company namely PT. Tangsel Market Independent . (which was previously the Market Management Division).

In Law Number 23 of 2014 concerning Regional Government , related BUMD arrangements also experienced change . Based on provisions of Article 1 number 40 of the Law Number 23 of 2014 concerning Government regions and Article 1 number 1 of the Regulations Government Number 54 of 2017 concerning Regional Owned Enterprises (BUMD) is what is meant with BUMD being the entire business entity or part big the capital owned by the region . Furthermore mentioned in Article 331 that area can establishing

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<sup>5</sup>PT. PITS (BUMD), PT Profile . PITS, <https://ptpits.id/about/>, accessed 06 June 2024 .

<sup>6</sup> *Ibid*

BUMD. The establishment of BUMD is determined with Regulation area . BUMD as intended consists on company general regions ( Perumda ) and Regional Liability Companies ( Perseroda ).

Change arrangement about BUMD in Constitution Number 23 of 2014 concerning the most important Regional Government is exists arrangement about form BUMD law . Arrangement This listed in Chapter XII Article 331 paragraph (3) concerning Regional Owned Enterprises.<sup>7</sup>In the provisions of Article 331 paragraph (3) it states that BUMD as referred to in paragraph (1) consists of on Regional Public Companies and Regional Public Companies. That matter means Regional Companies must in the form of 2 (two) choices of legal entities that have mentioned . Regional Public Companies are company the entire area the capital owned by one area and not divided on shares , while Regional Persero is a BUMD in the form of company limited capital divided in all shares or at least 51% of the shares owned by the region .

Furthermore in provisions of Article 402 paragraph (2) of the Law Number 23 of 2014 states that BUMD has There is before Constitution This valid , mandatory adapt with provision in Constitution This in period a maximum of 3 ( three ) years counted since Constitution This invited . Provision This Then also arranged in Regulation Government Number 54 of 2017 Article 139 paragraph (1) which states that the Regional Company has established before enactment Regulation Government This can changed become a BUMD. There are provisions that , hints to government area For quick do adjustment to form law all BUMDs in their respective regions .

In accordance with description background back above , based on Article 402 paragraph (2) of the Law Number 23 of 2014 states that BUMD has There is before Constitution This valid , mandatory adapt with provision in Constitution This in period a maximum of 3 ( three ) years counted since Constitution This invited . that happened problem is , PT. New PITS adapt with provision from Article 402 paragraph (2) of the Law Number 23 of 2014 in 2023. In 2023 , PT . PITS has do change form of legal entity become a Regional Limited Liability Company ( Perseroda ) PITS through South Tangerang City Regional Regulation Number 2 of 2023 concerning Change Form a South Tangerang Investment Development Limited Liability Company Legal Entity to become a South Tangerang Investment Development Regional Company .

## B. Formulation Problem

Based on identification the problem above , then researcher give formulation problem as following :

1. How consequence law Change Form of Legal Entity PT. South Tangerang Investment Development Becomes South Tangerang Investment Development Company Based Constitution Number 23 of 2014 concerning Local Government and Regulations Government Number 54 of 2017 concerning Regional Owned Enterprises?
2. How Procedure preparation South Tangerang City Regional Regulation Number 2 of 2023 concerning Change Form of Legal Entity PT. South Tangerang Investment Development Becomes a South Tangerang Investment Development Regional Company based on Constitution Number 12 of 2011 concerning Formation Legislation ?

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<sup>7</sup> <https://www.nawasis.org/portal/digilib/read/undang-undang-no-23-tahun-2014-tangan-anggaran-region/51754> . Accessed June 6 2024 .

### C. Theoretical framework

A theoretical framework is an explanation or plan for explaining everything that is used as research material based on its findings. The theories used in this research are classified into *grand theory*, *middle range theory* and *applied theory* with the division as follows:

#### 1. Legal Entity Theory

In this research, the researcher uses the theory of legal behavior as a *grand theory*. The first founder of legal entity theory was Friedrich Carl von Savigny. (1779-1861) in his book entitled *System des Hentingen Romischen Recht* he presented the theory that a legal entity is a legal fiction, whose existence is recognized, but is not a real person stated by law, which is considered a person. This means that only humans are legal subjects, while legal entities as legal subjects are just fiction, namely something that does not actually exist but people bring it to life in their imagination.

<sup>8</sup>This legal entity was created by the state/government whose form is not real, to explain something. In other words, according to nature, humans are always subjects of law, but people create in their imagination that legal entities as legal subjects are considered the same as humans. So, people act as if there are other legal subjects, but these unreal entities cannot carry out deeds, so those who do are humans as their representatives.

This theory covers aspects related laws with the legal entity status of a Limited Liability Company, incl not quite enough answer social, environmental, and criteria establishment of PT. limited liability company own clarity of legal entity status, which is regulated in Law no. 40 of 2007 concerning Limited Liability Companies (UU-PT)

According to Law Number 40 of 2007, "A Limited Liability Company, hereinafter referred to as a Company, is a legal entity which is a capital partnership, established based on an agreement, carrying out business activities with authorized capital which is entirely divided into shares and meets the requirements stipulated in the Law this and its implementing regulations."

#### 2. Legal Entity Theory

According to theory entity law, change form a PT legal entity to become PESERODA result change entity law from company the. In context here, there is implications related laws with ownership, responsibility responsibility, and structure organization company.

According to history, sociology law or *legal sociology* first introduced in 1882 by expert Italian law Anzilotti. Knowledge this is the essence born from combined experts' thoughts from various field like sociology, law, and philosophy law. Sociology law is knowledge new to learning insider behavior public so far determined by standards accepted laws and ethics in a way general and the extent of its influence to they. By theory, second knowledge big This looks Far With So, originator First theory entity law is expert Anzilotti's Italian law in 1882.

In context law, company area considered as the legal entity that owns it position separate law from the individuals involved in it. As a business entity owned by region, company area own connection special with Constitution taxation, where the law the will treat two or more from the unit (company) that owns it connection special in matter ownership, and later will considered as One must tax.

From here, you can concluded that theory entity law own linkages with company area in context law and taxation, where the company area considered as entity the law has position separate law from the individuals involved in it. So that can

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<sup>8</sup>Sidharta, *Reflection About Structure Legal Science*, Jakarta, 2000. Pg . 35.

concluded that theory entity law according to experts covers various view about laws and entities law That yourself , as well connection with legal entities such as a Limited Liability Company .

#### D. Research methods

Research methods law juridical normative this is basically it is merger between approach law normative with exists addition various element empirical . Research methods juridical normative about implementation provision law normative ( law ) in action on each incident law certain things happen in something public

##### 1. Type Study

Study law normative is type study Which used . Study law normative is study law Whichdone with gather material References Which studied with do literature.<sup>37</sup> Study law normative use thinking deductive ( think withdrawal ). Conclusion Can taken fromdata Which accepted in a way general And Correct . Taking conclusion based on objects analysis with method qualitative that is That refers to norm law as well as regulations .

##### 2. Research Approach

In stage study need exists method or approach study .<sup>9</sup>From the definition draft the Can interpreted thatrequired a form of data description as well as want meaning different from material law obtained . Types of research law normative Can use more from One approach .<sup>10</sup> Approach used on study This is approach draft ( *Conceptual approach* ) as well as approach legislation ( *Statutory Approach* ).

Approach draft held For do analysis to implementation change PT legal entity form . South Tangerang Investment Development Becomes the South Tangerang Investment Development Company reviewed based on Constitution Number 23 of 2014 concerning Local Government and Regulations Government Number 54 of 2017 concerning Regional Owned Enterprises and Procedures Formation Regional Regulation Number 2 of 2023 concerning Change Form of Legal Entity PT. South Tangerang Investment Development Becomes the South Tangerang Investment Development Company based on Constitution Number 12 of 2011 concerning Formation Legislation .

##### 3. Data collection technique

Literature study ( *library research* ) is technique collection data carried out in study This . Literature study done with method deepen Constitution And book law Which relatedwith issue moderate law researcher lift . Next is the data obtained through bibliography , with examine , examine and process literature , regulations legislation , articles or writingrelated with problems that will researched .

##### 4. Data analysis

Analysis normative is technique analysis of the data used instudy This . Analysis normative done To use get description short based on shaped data existing legislation linked with problem Which currently discussed . Furthermore done withdrawal conclusion sequentially from things Which nature general to matter Which nature more special here it is Which become topic in discussion study This .

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<sup>9</sup>Abdul Kadir, "*Law and Legal Research* " , PT. Aditya Bakti's image. Bandung, 2004, p . 52

<sup>10</sup>Johnny Ibrahim, " *Theory And Methodology Study Law Normative* ", BayuMedia Publishing, Malang, 2006. p . 300.

Analysis material law deductive is method Which used in interesting conclusion on study This . Analysis material lawdeductive is do analysis to gathering data Which obtained with set data other in a way systematic Then combined with opinions of existing scholars related Which used as comparative , more complete in study law is use steps as the following <sup>11</sup>, namely :

- a. For determine issue the law will solved so done eliminator things that don't relevant as well as identify existing legal facts;
- b. Do collection material laws that are necessary and have connection with non-legal materials ;
- c. Based on data that has been collected researcher do has on issue the law has submitted ; And
- d. The arguments that have been made be included In the conclusion, a description is given.

## **GENERAL DESCRIPTION OF LEGAL ENTITY FORMS OF LIMITED LIMITED COMPANIES AND REGIONAL LIABILITY COMPANIES**

### **A. History of PT. South Tangerang Investment Development**

PT. South Tangerang Investment Development ( next abbreviated as PT. PITS) is a Regional Owned Enterprise (BUMD) of South Tangerang City. The Company was founded on January 21 2014 with Deed Establishment made before Notary Titi Sulistyowati in South Tangerang City based on South Tangerang City Regional Regulation No. 2 of 2013 concerning Establishment of Regional Owned Enterprises (BUMD).

Authorized capital establishment of PT. PITS based Regional Regulation Number 2 of 2013 concerning Formation of Regionally Owned Enterprises, where the authorized capital company amounting to IDR 88,000,000,000 ( eight tens eight billion rupiah) divided on 99% shares owned by South Tangerang City Regional Government and 1% percent on name " Koperasi Sejahtera Praja Independent ".

PT. PITS has stand for 9 ( nine ) years and has did it several times replacement Directors . PT. PITS as a business entity company owned by area declared development himself in form of working holding company manage investment , infrastructure and business related real sector with development area like procurement of drinking / clean water , market management , development infrastructure technology information and management of traditional markets.Means establishment of PT. PITS are :

1. Contribute to regional economic development;
2. Seeking profits to increase company value;
3. Organizing public benefits in the form of providing high quality goods/services that are competitive and adequate to meet community needs;
4. Improving regional government asset governance;
5. Become a pioneer in business activities that cannot yet be implemented by the private sector and cooperatives; And
6. Actively participate in fostering, developing and empowering the people's economy professionally as an embodiment of the Regional vision and mission. The objectives of establishing BUMD are:
  - a. Improving public services;

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<sup>11</sup>Peter Mahmud Marzuki, " *Study Law* ", Kencana Media Groups, Jakarta, 2014,p.177.

- b. Increase regional income; And
- c. Improving the economy and people's welfare

To achieve various objectives of the corporate institution, PT PITS as a BUMD can form a subsidiary company ( *Subsidiary Company* ) as mandated in article 7 paragraph (1) of Regional Regulation No. 2 of 2013 concerning the establishment of BUMD. For this reason, PT PITS formed divisions which could later become the precursor to the initiation of the formation of subsidiaries, as follows:

1. In 2016 PT PITS established a Drinking Water Management Division with Directors' Decree Number 014/KepDir-PITS/XII/2016 with Plt. Head of Division Mr. Ruhamaben.
2. In 2019 PT. PITS has formed a Market Management Division based on Directors' Decree Number: 696/SK/NUS.01/IX/2019 concerning the Establishment of a Market Management Division and began operating actively at the beginning of 2020.
3. In 2016 PT. PITS has formed a Waste Management Division based on Directors' Decree Number: 006/KEPDIRPITS/X/2016.
4. In 2019 PT. PITS has formed a Market Management Division and an Information Technology (IT) Management Division
5. In 2022 PT. PITS formed a subsidiary, namely PT. Tangsel Mandiri Market. (which was previously the Market Management Division)

## **B. Employment of Regional Owned Enterprises Regulation Government Republic of Indonesia Number 54 of 2017 concerning Regional Owned Enterprises.**

We all know that the regional government has the authority to establish a BUMD or regional company with capital originating from the regional budget and expenditure revenues (APBD), as a source of original regional income (PAD) outside of taxes, and the purpose of establishing a BUMD or regional company is not only to seek profit but also to make a profit. help to develop and advance the region, where regional companies that are formed can be made from the potential of the region. And to develop BUMD or regional companies that originate from regional potential, BUMD or regional companies can collaborate with cooperatives or private parties who support each other for regional development and progress based on economic democracy.<sup>12</sup>

In 1962 there was a law regulating regional companies, namely Law of the Republic of Indonesia Number. 5 of 1962 concerning Regional Companies whose establishment is based on regional regulations, and whose position as a legal entity is obtained by the enactment of these regional regulations, however this law creates legal uncertainty because it has been revoked by Law of the Republic of Indonesia Number. 6 of 1968 concerning Declarations of the Invalidity of Various Laws and Government Regulations in Lieu of Laws, which states that the statement of invalidity of the laws listed in attachment III to this law is determined when the law that replaces them comes into force.

Law of the Republic of Indonesia Number 9 of 2015 concerning the Second Amendment to Law of the Republic of Indonesia Number 32 of 2004 concerning Regional Government, Article 177 regulates that regional governments can have regionally owned business entities whose establishment, merger, release of ownership, or dissolution is determined by regional regulations which is guided by statutory regulations, and with the amendment of the law concerning regional government the impact of Law of the Republic of Indonesia Number 5 of 1962 concerning Regional Companies (State Gazette of the

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<sup>12</sup>Prof. Dr. Zainal Asikin , Suhartana's male hero " Introduction to Company Law", Pranadamedia Group. Jakarta , 2016, p . 183



Republic of Indonesia of 1962 Number 10, Supplement to the State Gazette of the Republic of Indonesia Number 2387) is revoked and declared invalid but all provisions of statutory regulations which are implementing regulations of Law of the Republic of Indonesia Number 5 of 1962 concerning Regional Companies are declared to still be valid as long as they do not conflict with the provisions of Law of the Republic of Indonesia Number 9 of 2015 concerning the Second Amendment to the Law of the Republic Indonesia Number 32 of 2004 concerning Regional Government.<sup>13</sup>

### **C. Legal Basis for Changing Regional Companies to BUMD**

In 2014 the government passed Law Number 23 of 2014 concerning Regional Government. ", the legal form has changed from the previous regional companies and limited liability companies. Changes in legal form are explained in the statutory regulations in the transitional provisions, namely article 402 paragraph (2) which emphasizes that "BUMDs that existed before this Law came into force, are obliged to adapt to the provisions of this Law within a period of no more than 3 ( three) years from the promulgation of this Law." Apart from that, Law Number 23 of 2014 article 331 paragraph (6) regulates further provisions regarding BUMD which reads "Further provisions regarding the establishment of BUMD as intended in paragraph (1) are regulated in government regulations." So with these provisions, Government Regulation Number 54 of 2017 concerning Regional Owned Enterprises was issued, which is a further provision regarding the establishment of BUMD. this can be changed to BUMD.

## **AS A RESULT OF THE LAW CHANGING THE LEGAL FORM OF A LIMITED COMPANY TO A LIABILITY COMPANY**

### **A. Consequence law Change Form of Legal Entity PT. Become a Perseroda Post-Employment Constitution Number 23 of 2004 concerning Government Region and Regulations Government Number 54 of 2017 concerning Regional Owned Enterprises**

#### **1. Implications of the Legal Form of BUMD Perseroda**

Unlike Perumda provides it service to community ( *public service* ), Perseroda formed with objective For manage potency area To use push economy area and produce profit ( *profit oriented* ). Profit Perseroda become source Required Original Regional Income (PAD). For development . However as arranged in Article 114 paragraph (3) letter b PP Number 54 of 2017, Perseroda can changed the shape become Municipal Corporation . Related with change form law said , PP Number 54 of 2017 does not arrange is objective Municipal Corporation results change form law from Perseroda also joined changed , namely the original *profit oriented* changed become oriented to service public . Question This appear Because Invite Invite Number 23 of 2014 and regulations implementer namely PP Number 54 of 2017 no give instruction Perseroda which is like what can changed form become Municipal Corporation . Instructions provided just change the can done in frame reach goals and restructuring , without There is explanation objective like what do you want? achieved so that need done change form from Perseroda become Municipal Corporation .

Throughout directors No do violation on budget base company , then the company will responsible answer on all consequence from action directors these , incl if company suffer loss , even bankruptcy , throughout loss or bankruptcy the happen

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<sup>13</sup> Ibid., p . 184-185

No Because mistake ( intentional) or negligence ) of directors .<sup>14</sup>That matter confirmed in Article 97 paragraph (5) of the Law Number 40 of 2007 that member directors No can accountable on loss company if can prove :

- a. The loss was not due to his fault or negligence;
- b. Has carried out management in good faith and prudence for the benefit and in accordance with the aims and objectives of the Company;
- c. Have no conflict of interest, either directly or indirectly, regarding management actions that result in losses; And
- d. Have taken action to prevent the occurrence or continuation of such losses.

On the other hand, if the directors do not have good faith, are wrong, and are negligent in carrying out their management duties at Perseroda, and carry out actions related to ultra vires acts, then based on Article 97 paragraph (3) of Law Number 40 of 2007, each member of the board of directors must be fully responsible. personally for Perseroda's losses.

In the event that the board of directors consists of 2 (two) or more board members, then based on Article 97 paragraph (4) of Law Number 40 of 2007, this responsibility applies jointly and severally to each member of the board of directors.

The Supreme Court at the 2010 National Working Meeting differentiated the two by stating that state assets that had been included as BUMN or BUMD capital could be confiscated because the wealth no longer belonged to the State but had become property of the BUMN or BUMD. However, if money or goods belonging to the state are not capital participation but are managed by BUMN or BUMD, then the money or goods belonging to the state cannot be confiscated as collateral or confiscated execution in accordance with the provisions of Article 50 of Law Number 1 of 2004 concerning State Treasury ("State Treasury Law").<sup>15</sup>

In contrast to the statement of the Supreme Court, the Constitutional Court through Decision Number 62/PUU-XI/2013 stated that BUMN/D is an extension of the Government in carrying out government functions in a broad sense, thus the position of BUMN/D is to manage state finances, although it must be understood in a comprehensive manner. using a business paradigm ( *business judgment rules* ), which is different from the government paradigm ( *government judgment rules* ).

## 2. Implications of the Legal Form of BUMD Perumda

In the economic sector, regional governments can establish BUMDs to manage regional potential, improve the regional economy, and provide services to the community to realize community welfare and prosperity.

What is meant by BUMD based on Article 1 number 40 of Law Number 23 of 2014 and Article 1 number 1 of PP Number 54 of 2017 is a business entity whose capital is wholly or mostly owned by the region. Based on this understanding, as stated in Article 6 PP Number 54 of 2017, BUMD has the following characteristics:

- a. Business entities established by local governments;
- b. The business entity is owned by: 1) 1 (one) regional government; 2) more than 1 (one) regional government; 3) 1 (one) regional and non-regional government; or 4) more than 1 (one) regional government and non-regional government.

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<sup>14</sup>Hasbullah F. Sjawie , " Responsibility of Limited Liability Company Directors for Ultra Vires Actions," *PRIORIS Law Journal* 6, no. 1 (2017): 12–32, <https://doi.org/https://doi.org/10.25105/prio.v6i1.1886>

<sup>15</sup>Isis Ikhwanisyah , An An Chandrawulan , and Prita Amalia, " *Optimizing the Role of State-Owned Enterprises (BUMN) in the Era of the Asean Economic Community (AEC)* ." *Legal Media Journal* 25, no. 2 (2018): 156, <https://doi.org/https://doi.org/10.18196/jmh.2018.0110.150-161>

- c. All or most of the capital is separated regional wealth.
- d. Not a regional organization; And
- e. Managed using customs in the business world

In the definition of BUMD which has been explained, there are two legal forms of BUMD, namely: Perumda and Perseroda. Based on Article 334 paragraph (1) Law Number 23 of 2014 and Article 5 paragraph (1) PP No. 54 of 2017, Perumda is a BUMD whose entire capital is owned by one region and is not divided into shares. Thus, based on the characteristics of BUMD contained in Article 6 PP Number 54 of 2017, Perumda can only be owned by one region.

Meanwhile, what is meant by Perseroda based on Article 339 paragraph (1) of Law Number 23 of 2014 and Article 5 paragraph (2) of Government Regulation Number 54 of 2017 is a BUMD in the form of a Limited Liability Company (PT) whose capital is divided into shares in whole or at least 51% (fifty one percent) of the shares are owned by one region.

Based on the form of Perseroda being a PT, Perseroda must also comply with Law Number 40 of 2007 concerning Limited Liability Companies (UU No. 40 of 2007). A limited liability company is an association in the form of a legal entity, called a "company".<sup>16</sup>The definition of a Limited Liability Company (PT) is also contained in Article 1 number 1 of Law Number 40 of 2007 which states that a PT is a legal entity which is a capital partnership, established based on an agreement, carrying out business activities with authorized capital which is entirely divided into shares and meets the requirements specified stipulated in Law Number 40 of 2007 and its implementing regulations.

The term company in PT refers to the method of determining the capital of the legal entity which consists of holdings / shares and the term limited refers to the limit of responsibility of the company or shareholders, which is only limited to the nominal value of all the shares owned.<sup>17</sup>

The limited liability of shareholders on the nominal value of the shares owned is an elaboration of the principle of limited liability of shareholders. Limited liability or *limitatief aansprakelijkheid* or limited liability is a condition where shareholders or *shareholders* or *aandehouder* of a company are only responsible for the number of shares they own in the company.<sup>18</sup>

Based on the definition of Perseroda as explained, it can be seen that regions can own all or 100% (one hundred percent) of Perseroda shares. 100% (one hundred percent) share ownership by regions does not violate Law Number 40 of 2007 which requires that the establishment of a PT must be carried out by 2 or more people. This is because there are exceptions as regulated in Article 7 paragraph (7) of Law Number 40 of 2007 which states that provisions requiring a PT to be established by 2 or more people do not apply to Perseros whose shares are all owned by the state. With 100% (one hundred percent) share ownership, the area concerned will automatically be the owner of Perseroda.

From Perseroda's understanding, it is also possible for regions to own shares of at least 51% (fifty one percent). This means that there is an open possibility for other

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<sup>16</sup>O.C. ST Kansil and Christine S. T. Kansil, *Ins and Outs of Limited Liability Companies According to Law no. 40 of 2007* (Jakarta: Rineka Cipta, 2009).

<sup>17</sup> Kansil and S. T. Kansil

<sup>18</sup>H. Zainal Asikin and Wira Pria Suhartana, *Introduction to Company Law, Print I* (Jakarta: Prenadamedia Group, 2016).

parties to own Perseroda shares, as long as at least 51% (fifty one percent) of Perseroda shares are owned by one region. Bearing in mind that one region must own at least 51% of shares, then in the event that Perseroda is owned by more than one regional government, one of the regional governments must own more than 51% of Perseroda's shares. Both Perumda and Perseroda are business entities in the form of legal entities. Based on Article 4 paragraph (4) PP No. 54 of 2017, Perumda legal entity status is obtained when the regional regulations governing the establishment of Perumda come into force.

Meanwhile for Perseroda, based on Article 4 paragraph (5) PP No. 54 of 2017, Perseroda's position as a legal entity was obtained in accordance with the provisions of the law governing PT, namely Law Number 40 of 2007. Based on Article 7 paragraph (4) of Law Number 40 of 2007, Perseroda obtained the status of a legal entity on the date of publication of the Ministerial Decree regarding the legalization of the Company's legal entity. As a business entity that provides public benefits to improve community welfare, the rates for services and/or goods produced by Perumda are strived to be as cheap as possible so that they can be affordable by all levels of society.

Even the rates for services and/or goods produced by Perumda, such as drinking water, sometimes do not match production costs. On the other hand, even though it is not a priority, Perumda still has to pursue the regional original income (PAD) targets that have been set. This condition is considered quite burdensome for Perumda because it has to "stand on two legs", namely on the one hand it has to provide optimal services to the community (public services), and on the other hand it also has to pursue the set PAD targets. has been set. Based on Article 332 of Law no. 23 of 2014 and Article 19 paragraph (1) PP No. 54 of 2017, additional Perumda capital can be obtained from: a) regional capital participation; b) loan; c) grant; and d) other sources of capital, including reserve capitalization and asset revaluation profits. In its development, based on Article 114 paragraph (2) PP No. 54 of 2017, Perumda can change its form to Perseroda. Even Article 334 paragraph (2) of Law no. 23 of 2014 mandates changing the form of Perumda to Perseroda in the event that Perumda will be owned by more than one region.

Regarding the change in legal form, Law Number 23 of 2014 and its implementing regulations, namely PP No. 54 of 2017 does not regulate changes in objectives. Article 114 paragraph (2) PP No. 54 of 2017 only provides instructions that changes to the legal form of BUMD are carried out in order to achieve goals and restructuring, without stating what kind of goals will be achieved after the change in legal form occurs. As a result, it is not clear whether the objectives of Perseroda as a result of changes in the legal form of Perumda have also changed, namely that they are no longer oriented towards public services but rather focus more on profits (*business oriented*). This ambiguity arises because PT (Perseroda) aims to make a profit. This is as stated by Prof. Soekardono stated that a PT is an agreement that is specifically designed for the purpose of obtaining economic benefits.<sup>19</sup>

### **3. The lack of synchronization between the Regional Government Law and the BUMD PP**

If you look at the history of regulations related to BUMD before the issuance of the Regional Government Law, the provisions of Permendagri 3/1998 already existed. In Article 2 of Permendagri 3/1998, the legal form of BUMD can be a Regional Company (PD) or a Limited Liability Company (PT). Furthermore, Article 5 of

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<sup>19</sup>Richard Burton Simatupang , Legal Aspects in Business . Edition Revision (Jakarta: Rineka Cipta, 2007)

Permendagri 3/1998 also makes clear the procedure for changing the legal form of BUMD, namely:

- a. Submit a principle request regarding changes to the legal form to the Minister;
- b. Establish Level I or Level II Regional Regulations concerning Changes in the Legal Form of Regionally Owned Enterprises from Regional Companies to Limited Liability Companies;
- c. Making a Notarial Deed of Establishment as a Limited Liability Company.

However, along with changes in statutory regulations, Permendagri 3/1998 has been revoked because it conflicts with the Regional Government Law through Permendagri 11/2016. In State Administrative Law, the authority of the Ministry of Home Affairs is in accordance with the principle of *contrarius actus*, namely that the state administration body or official who issues a state administration decision also automatically has the authority to cancel it.

This principle applies even though the state administrative decision does not include the usual safety clause: "if in the future it turns out there was an error or mistake, this decision will be reviewed again." The principle of *contrarius actus* applies not only to state administrative decisions, but also to the principle of statutory regulations, where the person who has the authority to revoke a statutory regulation is the framer himself and cannot be done by lower regulations or institutions.

The legal consequence of the enactment of Permendagri 11/2016 is that after the issuance of the Regional Government Law, there are no implementing regulations governing changes in the form of the BUMD legal entity. Between Article 402 paragraph (2) of the Regional Government Law and Article 114 paragraphs (1), (3), and Article 139 paragraph (1) of PP BUMD, this creates synchronization and disharmony, namely:

- a. In Article 402 paragraph (2) of the Regional Government Law, there is the phrase "mandatory", which means it must be implemented, while in Article 114 paragraph (1) PP BUMD, there is the phrase "can", which means it is optional or not mandatory.
- b. In Article 402 paragraph (2) of the Regional Government Law, it is recognized that existing BUMDs that existed before the Regional Government Law (namely Regional Companies (PD) or Limited Liability Companies (PT) as regulated in Article 2 of Permendagri 3/1998) cannot be changed in their corporate form. The law is in accordance with the provisions of Article 114 paragraph (3) PP BUMD, namely that regional public companies become regional public companies and vice versa, regional public companies become regional public companies.
- c. Apart from that, in Article 139 paragraph (1) PP BUMD, the definition of BUMD as intended in Article 402 paragraph (2) of the Regional Government Law has been narrowed to the meaning that regional companies are not BUMD.

Based on Article 1 number 40 of the Regional Government Law, regional companies qualify as BUMD because they are business entities that have all or most of their capital owned by the Region. That Article 114 paragraphs (1) and (3) of the BUMD PP contradicts Article 402 paragraph (2) of the Regional Government Law because it is not in accordance with the principle of *lex superior derogat legi inferior* in the "Stufen Bow" theory. However, even though Article 114 paragraphs (1) and (3) of the PP BUMD contradicts Article 402 paragraph (2) of the Regional Government Law, the authority to carry out internal review if a statutory regulation is under the law -laws alleged to be in conflict with the law ( *judicial review* ) are carried out by the

Supreme Court as regulated in Article 9 paragraph (2) of Law 12 of 2011 concerning the Formation of Legislative Regulations, not under the authority of the BPK. In addition, the Regional Government Law does not regulate sanctions if the BUMD that existed before the Regional Government Law has not changed its legal entity form to become a regional public company or regional company within a period of 3 (three) years after the Regional Government Law is enacted.

However, the Regional Government Law and PP BUMD implicitly contain indications of guidelines for BUMDs that existed before the enactment of the Regional Government Law to adjust/change the form of the BUMD legal entity, including, among others:

**Table 4.1**  
**Comparison of the Legal Entity Forms of BUMD Perumda and Perseroda**

Change to (PERUMDA)	Change to Become (PERSERODA)
<ol style="list-style-type: none"> <li>1. The establishment of Regional public companies is prioritized in order to provide public benefits in the form of providing quality goods and/or services to fulfill people's livelihood in accordance with the conditions, characteristics and potential of the Region concerned based on good corporate governance. (Article 8 PP BUMD)</li> <li>2. The position of a Regional public company as a legal entity is obtained when the Regional Regulation governing the establishment of a Regional public company comes into force. (Article 4 paragraph (4) PP BUMD)</li> <li>3. Regional needs are assessed through studies that cover aspects of public services and community needs, including drinking water, markets and transportation. (Explanation of Article 331 paragraph (5) of the Regional Government Law)</li> </ol>	<ol style="list-style-type: none"> <li>1. In the event that a Regional public company will be owned by more than one Region, the Regional public company must change its legal form to become a Regional company. (Article 334 paragraph (2) of the Regional Government Law).</li> <li>2. The position of a regional company as a legal entity is obtained in accordance with the provisions of the law governing limited liability companies. (Article 339 paragraph (2) of the Regional Government Law in conjunction with Article 4 paragraph (5) and Article 136 PP BUMD)</li> </ol>

Furthermore, the regulations regarding Regional Public Companies as intended in the Regional Government Law and PP BUMD are taken from the Public Company concept in the BUMN Law, especially in the Elucidation to Article 35 paragraph (1) that the establishment of a Public Company must meet the following criteria, among others:

- a. The business field or activity is related to the interests of many people;
- b. It was not founded solely to pursue profits ( *cost effectiveness/cost recovery* );
- c. based on the assessment, it meets the economic requirements necessary for the establishment of a business entity (independent).

Thus, referring to the provisions of the Elucidation of Article 35 paragraph (1) of the *Junto BUMN Law* . Explanation of Article 331 paragraph (5) of the Regional Government Law. Article 4 paragraph (4) PP BUMD, the legal form of BUMD that existed before the Regional Government Law and PP BUMD which operates in the drinking water, markets and transportation sector meets the criteria to have its legal form adjusted to become a Regional Public Company. The exception is that if it is owned by more than one region, the regional public company must change its legal form to become a regional company as intended in Article 334 paragraph (2) of the Regional Government Law.

On the other hand, for BUMDs that existed before the Regional Government Law and PP BUMD whose capital is divided into shares, all of which or at least 51% (fifty one percent) of the shares are owned by one region as regulated in Article 339 (1) of the Regional Government Law jo. Article 5 paragraph (2) PP BUMD meets the criteria to adjust its legal form to become a Limited Liability Company, provided that its position and management are subject to the PT Law. In general, if a statutory regulation is declared to come into force, then all existing legal relations or legal actions that occur either before, during or after the new statutory regulation is declared to come into force are subject to the provisions of the statutory regulation. the new one. However, in reality and generally "law is always one step behind human civilization".

#### 4. Author's analysis

According to Government Regulation Number 54 of 2017 concerning Regional Owned Enterprises (BUMD), changes to the legal entity form of PT. South Tangerang Investment Development became the South Tangerang Investment Development Company based on Law Number 23 of 2014 concerning Regional Government. Government Regulation Number 54 of 2017 regulates that Regional Companies are regulated by new government regulations and have a new name, namely Regional Owned Enterprises or BUMD. The background to the stipulation of PP 54 of 2017 concerning BUMD is to implement the provisions of Article 331 paragraph (6), Article 335 paragraph (2), Article 336 paragraph (5), Article 337 paragraph (2), Article 338 paragraph (4), Article 340 paragraph (2), Article 342 paragraph (3) and Article 343 paragraph (2) Law Number 23 of 2014 concerning Regional Government.

Changes in the legal entity form of PT. South Tangerang Investment Development to become the South Tangerang Investment Development Company is carried out through South Tangerang City Regional Regulation Number 02 of 2023 concerning Changes in the Form of the Legal Entity of the South Tangerang Investment Development Limited Liability Company to become the South Tangerang Investment Development Regional Company. This is done with a focus on Drinking Water Supply System (SPAM) activities based on Law no. 17 of 2019 concerning Water Resources and Government Regulation no. 122 of 2015 concerning Drinking Water Supply Systems.

The Regional Government Law and PP BUMD are one type of statutory regulation as described in Article 7 paragraph (1) of Law 12/2011. Both the Regional Government Law and PP BUMD are legal products in the form of written statutory

regulations established by the Government, which are general in nature and binding at the national level. In this regard, of course implementing regulations are needed.

The formation of the BUMD PP is based on the mandate of Articles 331 paragraph (6), 335 paragraph (2), 336 paragraph (5), 337 paragraph (2), 338 paragraph (4), 340 paragraph (2), 342 paragraph (3) and 343 paragraph (2) of the Regional Government Law. Furthermore, in the PP BUMD provisions regarding changes in legal form are not regulated regarding changes in the legal form of BUMD before the Regional Government Law (Perusda and PT). Apart from that, with the repeal of Permendagri 3/1998 with Permendagri 11/2016 and Law Number 5 of 1962 concerning Regional Companies (UU 5/1962) with Article 409 letter a of the Regional Government Law, this has created further legal uncertainty regarding the regulation of changes in the legal form of BUMD. before the Regional Government Law and the BUMD PP.

Meanwhile, the legal basis that serves as a reference for the government in issuing implementing regulations regarding changes to the legal form of BUMD that existed before the Regional Government Law includes:

- a. Article 343 paragraph (2) of the Regional Government Law states that further provisions regarding the management of BUMD (one element of which is changes in legal form) are regulated in government regulations.
- b. PP BUMD as the implementing regulation of the Regional Government Law, in Article 114, does not regulate changes in the legal form of BUMD before the Regional Government Law is implemented and in Article 114 paragraph (5) PP BUMD also mandates that further provisions regarding changes in the legal form of BUMD are regulated in Minister of Home Affairs Regulation.

At the time this Law comes into force, all provisions of the Legislative Regulations which are implementing regulations of Law Number 5 of 1962 concerning Regional Companies (State Gazette of the Republic of Indonesia of 1962 Number 10, Supplement to the State Gazette of the Republic of Indonesia Number 2387), are stated to still be remains valid as long as it does not conflict with the provisions of this Law.

Then, Article 140 of PP BUMD contains the following transitional provisions: All implementing regulations relating to BUMD are declared to remain valid as long as they have not been replaced and do not conflict with the provisions of this Government Regulation. To date, the Ministry of Home Affairs has not issued a Minister of Home Affairs Regulation (Permendagri) regarding changes to the legal form of BUMD as mandated by Article 114 paragraph (5) of the PP BUMD.

However, even though the Minister of Home Affairs Regulation has not been issued above, bearing in mind that based on Article 402 paragraph (2) of the Regional Government Law, BUMDs that existed before the Regional Government Law are required to adjust within a maximum period of (3) years from the promulgation of the Regional Government Law, the government regions and BUMD management that existed before the Regional Government Law must carry out adjustments to the legal form of BUMD in accordance with the Regional Government Law and PP BUMD, based on the transitional provisions in the Regional Government Law and PP BUMD.

Thus, in the context of implementing adjustments to the legal form of BUMD that existed before the Regional Government Law and PP BUMD, in connection with the Law on Regional Government and PP BUMD not being sufficiently regulated and the Minister of Home Affairs Regulation regarding changes to the legal form of BUMD having not been issued, then the operational legal basis for adjusting the legal form of BUMD is is a transitional provision as intended in Article 405 of the Regional



Government Law jo. Article 140 PP BUMD, namely all provisions of statutory regulations which are implementing regulations of Law 5/1962 and implementing regulations relating to BUMD are declared to still be valid as long as they have not been replaced and do not conflict with the provisions in the Regional Government Law and PP BUMD

The legal standing of Regional Owned Enterprises (BUMD) which have not changed form to Perumda or Persiroda is that BUMD cannot carry out legal actions that should be carried out by a legal entity. This is in accordance with the provisions regulated in Article 402 paragraph (2) of Law Number 23 of 2014 concerning Regional Government. then the operational legal basis for adjusting the legal form of BUMD is the transitional provisions as intended in Article 405 of the Regional Government Law jo. Article 140 PP BUMD, namely all provisions of statutory regulations which are implementing regulations of Law 5/1962 and implementing regulations relating to BUMD are declared to still be valid as long as they have not been replaced and do not conflict with the provisions in the Regional Government Law and PP BUMD.

## **B. Procedure preparation South Tangerang City Regional Regulation Number 2 of 2023 concerning Change Form of Legal Entity PT. Become a Regional Company**

Procedure preparation South Tangerang City Regional Regulation Number 2 of 2023 concerning change PT legal entity form . South Tangerang Investment Development became a South Tangerang Investment Development Regional Company based on Constitution Number 12 of 2011 concerning Formation Legislation based on several article in Regional Regulation Number 8 of 2016 concerning Formation and Structure Required Regional Apparatus done change including adjustments a number of Regional Apparatus , as well deletion arrangement Unitary Regional Apparatus Nation and Politics as well as the South Tangerang City General Hospital. Legal Basis for this Regional Regulation is The 1945 Constitution of the Republic of Indonesia Article 18 Paragraph (6).

Stages procedure preparation South Tangerang City Regional Regulation Number 2 of 2023 concerning change the legal entity form of PT becomes company company area includes :

### **1. Mapping Affairs and Establishing Structure**

In 2016 , the South Tangerang City Government carried out mapping affairs with produce type Regional Apparatus , where it is formed structure is implementation internal affairs organization . After understood about need institutional this , then determined form accommodating institutions various affairs government included in it need to the organizational model that handles it .<sup>20</sup>

### **2. Regional Financial Management**

Regional financial management is the activity of preparing, implementing, administering, reporting, supervising and accountability of regional finances which must be carried out in accordance with applicable statutory provisions. Regional financial management is regulated by South Tangerang City regional regulations Number 12 of 2011 concerning Principles of Regional Financial Management.

### **3. Change in Form of Legal Entity**

On April 17 2023 , PT Pembangunan Investasi South Tangerang changed form of legal entity through South Tangerang City Regional Regulation Number 02 of 2023

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<sup>20</sup>[https://jdih.tangerangselatankota.go.id/frontend/jndih\\_produk\\_Hukum/index.html? Jenis=2](https://jdih.tangerangselatankota.go.id/frontend/jndih_produk_Hukum/index.html? Jenis=2) accessed June 6 2024 .

concerning Change Form a South Tangerang Investment Development Limited Liability Company legal entity to become a South Tangerang Investment Development Regional Company with focus activity System Provision of Drinking Water (SPAM).

According to analysis writer provision about procedure change in company status area become the newest form of BUMD is with method Re -register the company area the with follow the procedures the establishment of BUMD which has been regulated by regulations government number 54 of 2017 concerning Regional Owned Enterprises, in research This writer use The nomenclature " change of status" is not " establishment " due to this problem company area at first is form of BUMD but after exists Constitution Number 23 of 2014 concerning Regional Government explained exists change form of legal entity related to BUMD and also regional regulations about company area the Not yet revoked hence the status of the company area the Still There is so that writer emphasizes changes in company status area already There is previously become the newest form of BUMD , not the establishment company still form BUMD truly new will established .

In the research carried out writer procedure change in company status area become the newest form of BUMD that is with follow the process for establishing a BUMD in the Regulations Government Number 54 of 2017 concerning BUMD. Regulation government that is also regulation derivative from Constitution Number 23 of 2014 about government area . Related procedure establishment of BUMDs that exist in the regulations government number 54 of 2017 is very clear and it is not contradictory with Constitution number 23 of 2014 because regulation government the of course made For become regulation implementation Constitution number 23 of 2014 regarding Regional Owned Enterprises. From the results interview the author also gets it fact that in the city of Makassar from 6 ( six ) companies area there are 2 (two) companies failed area For status change to the newest form of BUMD namely PD Slaughterhouse and PD Makassar Metro Terminal, second company area the constrained by the feasibility analysis business so that No achieved second order agreement company area This For become the newest form of BUMD . On regulations government Number 54 of 2017 article 10 can seen that feasibility analysis business including in plan later establishment of BUMD will assessed by the DPRD so be one condition for company areas that must be fulfilled For Can changed become a BUMD

## **CLOSING**

### **A. Conclusion**

Conclusion about Change Form of Legal Entity PT. South Tangerang Investment Development Becoming a South Tangerang Investment Development Company is :

1. PT Pembangunan Investasi South Tangerang has changed its legal entity form to become the South Tangerang Investment Development Regional Company. This change was made through South Tangerang City Regional Regulation Number 02 of 2023. The regulation of Regional Owned Enterprises (BUMD) after the enactment of Law 23 of 2014 concerning Regional Government is as stated in Article 402 of Law 23 of 2014 concerning Regional Government: BUMDs that existed before this Law came into force are obliged to adapt to the provisions of this Law within a maximum period of 3 (three) years from the promulgation of this Law. It can be concluded that after 2017 there will no longer be regional companies in the form of BUMD, all of them must be formed as regional public companies or regional limited liability companies.
2. Procedure for drafting South Tangerang City Regional Regulation Number 2 of 2023 concerning Changes in the Legal Entity Form of PT. South Tangerang Investment Development Becomes a Regional Company. South Tangerang Investment

Development based on Law Number 12 of 2011 concerning the Formation of Legislative Regulations involves several important stages. Stages of Preparing Regional Regulations. The preparation of statutory regulations is carried out in accordance with applicable statutory provisions. A good and in-depth understanding of the systems, techniques and processes of forming legal regulations is an important prerequisite for producing qualitative, aspirational and responsive legal products. And the legal standing of Regional Owned Enterprises (BUMD) which have not changed form to Perumda or Persiroda is that BUMD cannot carry out legal actions that should be carried out by a legal entity. This is in accordance with the provisions regulated in Article 402 paragraph (2) of Law Number 23 of 2014 concerning Regional Government. then the operational legal basis for adjusting the legal form of BUMD is the transitional provisions as intended in Article 405 of the Regional Government Law jo. Article 140 PP BUMD, namely all provisions of statutory regulations which are implementing regulations of Law 5/1962 and implementing regulations relating to BUMD are declared to still be valid as long as they have not been replaced and do not conflict with the provisions in the Regional Government Law and PP BUMD.

## B. Suggestion

1. To provide legal certainty, the provisions in Article 402 paragraph (2) of Law Number 23 of 2014 concerning Regional Government must contain strict sanctions if BUMD occurs after 3 years from the enactment of Law Number 23 of 2014 concerning Regional Government.
2. Harmonization of laws and regulations relating to BUMD is absolutely necessary. Because so far it has been given the impression that the regulations regarding BUMDs are not specifically regulated, as we know, the regulations regarding BUMDs are regulated in the Law on Regional Government, as if ignoring BUMDs, whereas the regulations in BUMDs themselves are not simple and are also related to limited liability companies.

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