

**LEGAL CERTAINTY REGIONAL REGULATION OF LAMPUNG PROVINCE
NUMBER 6 OF 2019 CONCERNING CAPITAL INVESTMENT TO SUPPORT
INVESTMENT IN LAMPUNG PROVINCE**

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Abstract

This research aims to research and analyze Legal Certainty. Implementation of Lampung Province Regional Regulation Number 6 of 2019 concerning Capital Investment in Lampung Province. What is the analysis of the Investment Regulatory Arrangement in Lampung Province. The research method used is Normative Juridical which is based on secondary legal materials. This research uses the approach: *statute approach*, and *conceptual approach*, Legal material search techniques using document study techniques, as well as study analysis using qualitative analysis.

The research results show that the Government has a strategic role to encourage investment, especially in Lampung Province. Foreign Direct Investment (PMA) is expected to have a positive impact on Indonesia, including encouraging economic activity, transferring technology, creating jobs, and providing other benefits that will ultimately lead to the creation of people's prosperity.

The lack of clarity in the regulations regarding investment in Lampung Province has led to overlaps between one regulation and another, as well as giving rise to difficulties in the licensing bureaucracy, which is a problem often found in investment activities in Indonesia. In this regard, the Government has issued Lampung Province Regional Regulation Number 6 of 2019 concerning Capital Investment. In overcoming the problem of investment legal certainty in Lampung Province.

Keywords: Investment, Investment, Legal Certainty, Lampung Province

A. Background

Rapid economic development as well as advances in technology and industry have produced various types of goods and/or services, so that consumers are ultimately faced with various types of choices.¹ Every country always tries to improve the development, welfare and prosperity of its people. This effort is carried out in various ways that differ from one country to another. In Indonesia, efforts to improve the welfare and prosperity of the people are outlined in the preamble to the 1945 Constitution which states that: By the grace of Allah the Almighty and driven by the noble desire to live a free national life, the Indonesian people hereby declare their independence.² Facilitate synergy between government, society and the business world to support business development, business and investment.³

The aim of establishing the Indonesian State contained noble ideals, namely creating a just and prosperous society. According to Sunaryo Waluyo: The dream of a just and prosperous society in the life of the Indonesian nation has been a central issue throughout history.⁴ In this regard, justice and prosperity are two partners that cannot be separated from society's philosophy and are the goal of life. Every investment will make a major contribution to the economic growth of a country, because investment will encourage the development of overall economic activity.⁵ In this regard, capital investment must be part of the implementation of the national economy and placed as an effort to increase sustainable economic development, increase national technological capacity and capabilities, encourage community economic development, and realize community welfare in a competitive economic system.⁶

¹ Sitepu, Camelia Fanny, And Hasyim Hasyim. "Development of Cooperative Economics in Indonesia." *Grabbed 7.2* (2018): 59-68.

² PAMBUDI, Wahyu. Sacralization of the Preamble to the 1945 Constitution. *ISTORIA Journal of Education and History*, 2018, 14.1.

³ RPJMD Lampung Province H. V-19

⁴ HERNAWATI, R. A. S.; SUROSO, Joko Trio. Legal Certainty in Investment Law in Indonesia Through Omnibus Law. *Scientific Journal of Management, Economics & Accounting (MEA)*, 2020, 4.1: 392-408.

⁵ Jonker Sihombing, *Investment Law in Indonesia*, Bandung: Alumni, 2009, Pg.31

⁶ ROCHMAN, Arif. RE-ORDERING FOREIGN INVESTMENT POLICIES IN INDONESIA TOWARDS A PROSPEROUS PEOPLE WITH SOCIAL JUSTICE. *Scientific Journal of Law and Justice*, 2024, 11.1: 9-30.

When investing, investors will carry out a feasibility study regarding the prospects for the business they will run, including examining the provisions of laws and regulations relating to the investment. This will be a problem for investors if the losses experienced are not due to mismanagement of the company, but there is no legal protection, either for the capital invested or the goods to be produced.⁷ Investors need legal certainty in running a business, meaning investors need a standard that can be used as a guide in carrying out their investment activities. This measure is called a rule made by a party who has the authority to do so, because legal certainty is a necessity for the arrival of foreign capital into a country.⁸

Certainty in investment law which is a guideline for investment in Lampung Province. Regarding licensing, it has been regulated in Lampung Province Regional Regulation Number 2 of 2023 concerning the Implementation of Business Licensing in the Region, which provides legal protection for invested capital, investment and investor business activities. A form of legal certainty is regulations from the central government that apply generally in the territory of Indonesia. Apart from that, there can also be local regulations made by local authorities that only apply in their area.⁹ If investors want to come to invest their capital in Lampung Province, one thing that must be prepared is the existence of clear legal instruments, meaning that one provision and another do not conflict with each other.¹⁰ Therefore, law in Indonesia should be able to create legal certainty so that it can play a role in economic development.

B. Discussion

1. Legal Certainty of Lampung Province Regional Regulation Number 6 of 2019, concerning Capital Investment.

The importance of law is related to investment, investors need legal certainty in running their business. This means that investors need to have one standard that can be

⁷Sentosa Sembiring, *Investment Law* (Bandung: CV. Nuansa Aulia, 2010), Pg. 70.

⁸Suparji, *Foreign Investment in Indonesia "Incentives V. Restrictions* (Jakarta: FH Al-Zhar University Indonesia, 2008), Pg. 146.

⁹Soerjono Soekamto, *Several Legal Issues and the Indonesian Development Framework* (Jakarta: UI Press, 1974), Pg. 56.

¹⁰Soerjono Soekamto, *Several Legal Issues and the Indonesian Development Framework* (Jakarta: UI Press, 1974), Pg. 56.

used as a guide in carrying out their investment activities. Before making an investment, investors usually ask what they can gain from the investment in the future.

Often the problem of legal certainty becomes an obstacle to investment entry. Legal uncertainty is part of the problems that cause an unfavorable investment climate.¹¹ A conducive climate will certainly greatly influence the investment climate in Indonesia. For this reason, the three aspects, the legal substance aspect, the legal apparatus aspect, and the legal culture aspect must reflect legal certainty.

The substantive aspect of law involves regulations that are clear, non-contradictory, and easily understood by all relevant parties. Lampung Province Regional Regulation Number 6 of 2019 concerning Capital Investment, for example, aims to provide clear guidelines for foreign and domestic investment. In this context, these regulations regulate various things such as licensing, incentives, and investor rights and obligations, all of which are designed to create a stable and attractive investment environment.

The element of the legal system that determines the creation of legal certainty is the legal apparatus. This can be seen from the emergence of overlapping authorities and conflicts of interest between regional and central agencies.¹² In fact, with the delegation of authority from the central government to regional governments, it is hoped that regions will be able to capture the opportunities and challenges of global competition by increasing regional competitiveness based on the potential and diversity of their respective regions.¹³

The role of HR in carrying out orders is very important in ensuring that regulations can be implemented effectively. A professional, transparent and accountable apparatus can reduce complicated bureaucracy and conflicts of interest that often arise.¹⁴ The involvement of various agencies in the investment licensing and regulation process requires good

¹¹ VE ATIKA, "Siyasah Fiqh Analysis of the Implementation of Government Regulation Number 6 of 2021 concerning the Implementation of Business Licensing in the Regions (Study at the Lampung Province One-Stop Investment and Integrated Services Service)" P.44

¹² P Nugroho And MAR Azizy, "GUARANTEE OF INVESTMENT LEGAL SECURITY IN INDONESIA AFTER THE ENTRANCE OF LAW NUMBER 6 OF 2023 CONCERNING JOB CREATION", *Smart Law Journal* (Journal.Unkaha.Com, 2023). H.32

¹³ EB Siagian, "Legal Certainty in Acquiring Land Rights in Investment Activities from an Investment Law Perspective" (Repository.Uki.Ac.Id, 2023), P. 55

¹⁴ N Apriansyah And HAMR Indonesia, "The Role of the Ministry of Law and Human Rights' Illegal Levy Eradication Unit in Realizing Apparatus Accountability and Integrity", *In the JIKH Journal...* (Inspektorat.Lumajangkab.Go.Id, 2018), H.112

coordination to avoid overlapping and policy inconsistencies that could hinder investment in Lampung Province.¹⁵

The most visible element of Legal Culture is Corruption. Corruption practices are the main reason investors are reluctant to invest in building businesses in Indonesia, apart from infrastructure, bureaucracy, taxes and labor factors. The high level of corruption in Indonesia causes the investment climate to become uncondusive, making it unable to attract Foreign Direct Investment (FDI) and domestic investment, resulting in a slowdown in the multiplier effect process in the economy. As a consequence, economic growth, which is the main prerequisite for reducing poverty, becomes low, resulting in poverty alleviation programs becoming stagnant.¹⁶ If the government wants to continue to reap benefits through foreign investment, it must firmly provide legal protection and certainty, especially to foreign investors who are investing their capital in Indonesia considering that the track record of investors in a country is a consideration for other investors when investing their capital in that country. .

Rampant corruption in bureaucratic systems creates uncertainty and additional costs that investors do not want. Therefore, reforms in aspects of legal culture are very necessary to create a more transparent and accountable environment.¹⁷ The government must enforce the law consistently and provide strict sanctions against corrupt practices to increase investor confidence.

The government always strives to advance the country's economy, one of which is by ensuring that the flow of capital into Indonesia is greater so that the incoming funds can be used for the country's development, especially in the country's economic sector.¹⁸ One of the efforts that can be made by the government is the existence of foreign investment

¹⁵ MICKY, Hendri, Hartuti Purnaweni, and Kismartini Kismartini. "Implementation of Changes in Mining Licensing and Supervision Authority at the Lampung Province Mining and Energy Service (Case Study of Bandar Lampung City)." PhD diss., School of Postgraduate, 2016. p.22

¹⁶ F Odhy, "Legal Cultural Perspective in the Development of Corruption Cases in Indonesia", *"Dharmasisya" Journal of the FHUI Law Masters Program* (Scholarhub.Ui.Ac.Id, 2021), H. 87

¹⁷ M Syahroni And T Sujarwadi, "Corruption, Not Culture But Disease" (Books.Google.Com, 2018), P. 43

¹⁸ Sukmana O. Concept and Design of a Welfare State. *Sospol: Journal of Social Politics*. 2016;2(1):103-22.

activities in Indonesia. The definition of foreign investment according to M.Sornarajah is the transfer of capital, whether real.¹⁹

The development of policies that support foreign investment must continue to be improved. The government, through regulations such as Lampung Province Regional Regulation Number 6 of 2019, seeks to create attractive conditions for investors by providing incentives and guarantees of legal protection. This will help increase regional competitiveness in attracting foreign investment which in turn can encourage local and national economic growth.

Through these efforts, the government hopes to create a better investment environment, encourage the inflow of foreign capital, and ultimately achieve the goal of inclusive and sustainable economic development. Thus, pro-investment policies, strengthening the legal apparatus, and eradicating corruption are the main keys in ensuring legal certainty for foreign investment in Indonesia.²⁰

2. Effectiveness of Regulatory Arrangements Lampung Province Regional Regulation Number 6 of 2019 concerning Capital Investment

The Lampung provincial government and city district governments throughout Lampung Province, in attracting investors to develop areas in the field of real sector economic development, can carry out trade and investment internally and internationally in accordance with statutory regulations. To invest capital in Lampung, you must obtain a permit and the licensing process is carried out through a one-stop integrated service, namely the activity of administering licensing and non-licensing which is delegated or delegated authority from an institution or agency that has licensing and non-licensing authority, the management process of which starts from the application stage to the publishing documents in one place. The authority of the Lampung Provincial Government to determine investment policies for:

- a. Encourage the creation of a conducive business climate for investment to strengthen Aceh's competitiveness in the national and international economy;

¹⁹ AA Satrianingtyas, "GENERAL REVIEW OF FOREIGN INVESTMENT IN INDONESIA", *Civilia: Journal of Law and Education Studies* (Jurnal.Anfa.Co.Id, 2023), H.124

²⁰ Daughter, Reniza Helena. "The Influence of Subsidy Policy, Foreign Direct Investment (FDI) and Governance on Economic Growth (Case Study of Countries in ASEAN)." PhD diss., University of Lampung, 2019.

- b. Accelerate the increase in capital investment; And
- c. Make optimal use of capital investment opportunities as mandated in Lampung Province Regional Regulation Number 6 of 2019 concerning Capital Investment

Referring to the description above, the existence of law, especially legal certainty for investors, is a very important guide in running and investing capital in Indonesia. If legal certainty is linked to justice, they are often not in line with each other. This is because it is not uncommon for legal certainty to ignore the principles of justice and conversely, it is not uncommon for justice to ignore the principles of legal certainty.²¹ In the event of a conflict between legal certainty and justice, justice must take priority.

In fact, the implementation of regional autonomy provides many opportunities for Regional Governments to attract foreign investors to the region. The steps that can be taken are to create orderly and safe conditions, guarantee legal certainty, simplify bureaucratic licensing procedures, provide incentives for industries that are able to absorb labor, are environmentally friendly, are able to partner with small industries, are able to develop commodity exports and so on.²² The important thing to do immediately is to make all preparations related to exploring and identifying regional potential, developing clear plans and strategies so that the regional government's goals and objectives for increasing capital investment in the region can be maximally achieved.²³

Facing the problem of conflicting interests between investors and provinces receiving capital, as well as regarding the pros and cons of foreign capital, requires government wisdom.²⁴ This requires a firm attitude from the government of the recipient country to establish various investment policies and regulations that not only favor the interests of attractive land provinces, stable social, economic and political conditions, regional regulatory policies must be clear, provide legal certainty for foreign investors,

²¹ PRASETYO, MUHAMMAD ARIF PRASETYO. The Role of Investment Law in Increasing Capital Investment in Indonesia. *Prima Legal Science (IHP)*, 2021, 4.2.H. 12

²² EB Siagian, "Legal Certainty in Acquiring Land Rights in Investment Activities from an Investment Law Perspective" (Repository.Uki.Ac.Id, 2023), P.29

²³ H SUHANDA, "Certainty of Licensing Laws in Investment Governance for Increasing Investment in Banten Province" (Eprints.Untirta.Ac.Id, 2023), H. 22

²⁴ HERNAWATI, R. A. S.; SUROSO, Joko Trio. Legal Certainty in Investment Law in Indonesia Through Omnibus Law. *Scientific Journal of Management, Economics & Accounting (MEA)*, 2020, 4.1: 392-408.

ensuring consistency between provisions of laws and regulations, certainty between provisions and legal implementation (law enforcement), as well as providing non-discriminatory treatment towards foreign capital.²⁵

The Lampung Provincial Government needs to continue to evaluate and adjust regulations so that they remain relevant and support a conducive investment climate. Effective implementation of Lampung Province Regional Regulation Number 6 of 2019 must be supported by competent and integrity officials, as well as a transparent and accountable monitoring mechanism. Thus, good regulations, consistent implementation and strict law enforcement will encourage an increase in sustainable investment in Lampung Province.

Another important step is to build adequate infrastructure to support investment activities. Good infrastructure, such as roads, ports, airports and other logistics facilities, will increase attractiveness for investors.²⁶ The existence of adequate infrastructure not only facilitates the process of distributing goods and services but also reduces operational costs for companies. Therefore, government investment in infrastructure development must continue to be increased to create a more attractive and competitive business environment.

Apart from that, local governments must be active in promoting investment opportunities that exist in Lampung Province. This promotion can be carried out in various ways, such as holding investment exhibitions, roadshows and participation in international investment forums. Cooperation with international institutions and investment promotion agencies also needs to be improved to expand networks and attract more foreign investors. Information regarding investment potential in Lampung must be conveyed clearly and comprehensively to potential investors.²⁷

It is also important for local governments to improve the quality of human resources (HR) in their regions. The availability of skilled and trained labor will be an

²⁵ P Nugroho And MAR Azizy, "GUARANTEE OF INVESTMENT LEGAL SECURITY IN INDONESIA AFTER THE ENTRANCE OF LAW NUMBER 6 OF 2023 CONCERNING JOB CREATION", *Smart Law Journal* (Journal.Unkaha.Com, 2023), H. 133

²⁶ L Cosseboom, "How Indonesia Can Become More Attractive to Foreign Investors" (2015), P. 43

²⁷ A Nesia, S Pangemanan And S Sampe, "The Role of Regional Government in Increasing Investment (Case Study of PT. Conch North Sulawesi Cement)", *EXECUTIVE JOURNAL* (Ejournal.Unsrat.Ac.Id, 2019), H.113

added value for investors who want to invest their capital in Lampung. Therefore, vocational training and education programs that suit industry needs must continue to be developed.²⁸ Local governments can collaborate with the private sector and educational institutions to create training programs that are relevant and based on market needs.

Apart from that, the government must strengthen incentive policies for investors. These incentives can take the form of tax reductions, providing land at competitive prices, as well as various other administrative conveniences. Attractive incentive policies will encourage more investors to invest their capital in Lampung. The government also needs to ensure that these incentives are provided transparently and based on clear criteria to avoid abuse and corruption.²⁹

In facing global challenges, local governments must also be responsive to changes and dynamics of the international economy. Investment policies must be flexible and adaptive to global developments so that Lampung Province remains an attractive investment destination.³⁰ Regional governments must always be ready to anticipate changes in international trade policies, global market fluctuations, and technological innovations that can affect the investment climate in their regions.

Overall, the success of structuring investment regulations in Lampung Province is very dependent on the synergy between good policies, effective implementation and strict supervision. By creating a conducive environment for investment, the Lampung Provincial government can not only attract more investors but can also encourage sustainable economic growth and improve the welfare of the people in its region.

C. The knot

Lampung Province, as the easternmost region of Sumatra, is very strategic, close to the city of Jakarta, so a lot of investment should go to Lampung Province, because there

²⁸ A Xena And A Fadlian, "Regional Government Authority and Community Participation in Managing Regional Potential", *Jurnal Hukum Positum* (Journal.Unsika.Ac.Id, 2021), H.221

²⁹ A Zaeni, "Demak Regency Regional Government Policy in Creating an Investment Climate Based on Islamic Justice Values", *USM Law Review Journal* (Journals.Usm.Ac.Id, 2018), H.29

³⁰ D Malendes, "Regional Government Authority in the Investment Sector in the Perspective of Law No. 23 of 2014 in conjunction with Law No. 9 of 2015 concerning Regional Government", *Privacy Law* (Ejournal.Unsrat.Ac.Id, 2017),H. 143

are many laws and regulations issued by the central government which make legal certainty ineffective and long-winded. Lampung Province Regional Regulation Number 6 of 2019 concerning Capital Investment has not been implemented comprehensively and optimally.

BIBLIOGRAPHY

Apriansyah, N, & Indonesia, HAMR (2018). The Role of the Ministry of Law and Human Rights' Illegal Levy Eradication Unit in Realizing Apparatus Accountability and Integrity. *in the JIKH Journal...*, inspektorat.lumajangkab.go.id,

ATIKA, VE (2023). ... *CONCERNING THE IMPLEMENTATION OF BUSINESS LICENSING IN THE REGION (Study at the Lampung Province One Stop Investment and Integrated Services Service)*., repository.radenintan.ac.id,

Cosseboom, L (2015). *How Indonesia Can Become More Attractive to Foreign Investors*.

Hernawati, R. A. S., & Suroso, J. T. (2020). Legal Certainty in Investment Law in Indonesia Through Omnibus Law. *Scientific Journal of Management, Economics & Accounting (MEA)*, 4(1), 392-408.

Jonker Sihombing, 2009 Investment Law in Indonesia, Bandung: Alumni.

Malendes, D (2017). Regional Government Authority in the Investment Sector in the Perspective of Law no. 23 of 2014 Jo Uu No. 9 of 2015 concerning Regional Government. *Privacy Law*, ejournal.unsrat.ac.id

MICKY, H., Purnaweni, H., & Kismartini, K. (2016). *Implementation of Changes in Mining Licensing and Supervision Authority at the Lampung Province Mining and Energy Service (Case Study of Bandar Lampung City)* (Doctoral dissertation, School of Postgraduate).

Nesia, A, Pangemanan, S, & Sampe, S (2019). The Role of Regional Government in Increasing Investment (Case Study of PT. Conch North Sulawesi Cement). *EXECUTIVE JOURNAL*, ejournal.unsrat.ac.id,

Nugroho, P, & Azizy, MAR (2023). GUARANTEE OF INVESTMENT LEGAL SECURITY IN INDONESIA AFTER THE ENTRANCE OF LAW NUMBER 6 OF 2023 CONCERNING JOB COPYRIGHT. *Smart Law Journal*, journal.unkaha.com,

Odhy, F (2021). Legal Culture Perspective in the Development of Corruption Cases in Indonesia. *"Dharmasisya" Journal of the FHUI Law Masters Program*, scholarhub.ui.ac.id,

Pambudi, W. (2018). Sacralization of the Preamble to the 1945 Constitution. *ISTORIA Journal of Education and History*, 14(1).

PRASETYO, M. A. P. (2021). The Role of Investment Law in Increasing Capital Investment in Indonesia. *Prima Legal Science (IHP)*, 4(2).

Putri, R. H. (2019). *The Influence of Subsidy Policy, Foreign Direct Investment (FDI) and Governance on Economic Growth (Case Study of Countries in ASEAN)* (Doctoral dissertation, University of Lampung).

Lampung Provincial Regional Regulation Number 12 Tatiun 2021 concerning Amendments to Lampung Provincial Regional Regulation Number 13 of 2019 concerning the Medium Term Regional Development Plan of Lampung Province for 2019-2024

Rochman, A. (2024). RE-ORDERING FOREIGN INVESTMENT POLICIES IN INDONESIA TOWARDS A PROSPEROUS PEOPLE WITH SOCIAL JUSTICE. *Scientific Journal of Law and Justice*, 11(1), 9-30.

Lampung Province Regional Medium Term Development Plan (RPJMD) 2019-2024

- Sitepu, C. F., & Hasyim, H. (2018). Development of cooperative economics in Indonesia. *Grabbed*, 7(2), 59-68.
- Siagian, EB (2023). *Legal Certainty in Acquiring Land Rights in Investment Activities from an Investment Law Perspective.*, repository.uki.ac.id,
- Siagian, EB (2023). *Legal Certainty in Acquiring Land Rights in Investment Activities from an Investment Law Perspective.*, repository.uki.ac.id,
- Sukmana, O. (2016). Concept and Design of a Welfare State. *Sospol: Journal of Social Politics*, 2(1), 103-122.
- Syahroni, M, & Sujarwadi, T (2018). *Corruption, not a culture but a disease.*, books.google.com
- Soerjono Soekamto, Some Legal Problems and the Indonesian Development Framework (Jakarta : UI Press, 1974)
- Suparji, Foreign Investment in Indonesia "Incentives V. Restrictions (Jakarta: FH Al-Zhar University Indonesia, 2008)
- Sentosa Sembiring, Investment Law (Bandung: CV. Nuansa Aulia, 2010)
- Xena, A, & Fadlian, A (2021). Regional Government Authority and Community Participation in Regional Potential Management. *Jurnal Hukum Positum.*
- Zaeni, A (2018). Demak Regency Regional Government Policy in Creating an Investment Climate Based on Islamic Justice Values. *USM Law Review Journal*, journals.usm.ac.id