

## Legal Implications D of the Enactment of the Job Creation Law on the Authority of Local Governments on the Implementation of Building Approvals (PBG) For Villa Construction



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**ABSTRACT:** The dynamics of laws and regulations in the field of buildings are also related to the dynamics of laws and regulations on ease of doing business, especially after the promulgation of Law Number 6 of 2023 concerning Job Creation. Regarding the approval of buildings as an instrument of building control, the ease of doing business in the region must be facilitated by the local government, without ignoring its control as an effort to achieve building order and building construction safety. The enactment of Government Regulation in Lieu of Law Number 2 of 2022 on the issuance of building approvals (PBG) in the City/Regency Government is on Regional Original Revenue (PAD) so that tariff adjustments must be carried out selectively within the framework of regional autonomy and fiscal decentralization that gives authority to regions in mobilizing regional revenue. PBG (Building Approval) regulates business actors structurally building construction starting from spatial planning, building types, building models, and others, regulated in the law, so that buildings built by business actors become more orderly. PBG (building approval) also makes city governance more dynamic with strategic goals and principles that are harmonized by the local government.

**KEYWORDS:** Building Approval, Regional Ownership, Job Creation.

### 1. INTRODUCTION

Tourism has become one of the sources of local income and investment is a potentially vital production factor in the service production business.<sup>1</sup> Tourism activities in Bali, especially those in the Badung Regency area, are currently growing, many foreign tourists visit, stay and do activities in tourist attraction areas in Badung Regency. In order to support these activities, the location of tourism accommodation activities in Badung Regency is increasingly mushrooming, namely the existence of villas and Guest Houses as tourism accommodation.<sup>2</sup>

Guest House (boarding house/rented house) and Villa as support. Especially in Badung Regency, especially in the Canggu area, many houses are used as Guest Houses for guests who want to stay in Bali. Because of the rise of tourists who want a place to stay overnight at a low cost, the house is used as a place known as a Guest House that does not have a permit.<sup>3</sup>

Villa buildings refer to Badung Regent Regulation Number 5 of 2016 concerning Villa Business Standardization, this is due to the rapid growth and development of the population giving encouragement to the use of space, and houses as Guest Houses and villas, as well as development patterns carried out by the community.<sup>4</sup> The development of the construction of Guest Houses and Villas in Badung Regency is increasing, One of them is as a means of supporting tourism accommodation, the house is used as a Guest

<sup>1</sup>Izziyana, W. V., Nurwati, N., Forester, A. Y., & Fitri, L. (2022). Actualization of Legal Policies in National Tourism Development. *Borobudur Law and Society Journal*, 1(5), 28-35.

<sup>2</sup>Widiati, I. A. P., & Permatasari, I. (2022). Environment-Based Sustainable Tourism Development Strategy in Tourism Support Facilities in Badung Regency. *Kertha Wicaksana*, 16(1), 35-44.

<sup>3</sup>Anggara, W. Y. (2024). *Persetujuan Bangunan Gedung Di Kabupaten Sleman Pra Dan Pasca Diberlakukan Undang-Undang Cipta Kerja* (Doctoral Dissertation, Universitas Atma Jaya Yogyakarta)

<sup>4</sup>Sihombing, R., Prabawati, N. P. A., & Yudhartha, I. P. D. (2024). Kinerja Dinas Penanaman Modal dan Pelayanan Terpadu Satu Pintu (DPMPTSP) Dalam Penerapan Sistem Layanan Perizinan Online (LAPERON) di Kabupaten Badung. *Socio-political Communication and Policy Review*, 1(3), 106-115.

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House and villa. The number of Guest Houses and Villas that do not have building permits, resulting in violations of the law in the field of licensing.<sup>5</sup>

Provisions related to the IMB levy as part of certain licensing levies, becoming PBG levies must be followed up with the Building Permit Levy because it is considered no longer in accordance with the development of legal dynamics. In fact, the service and implementation of building approval in the region requires financing which can be partially or wholly charged to the applicant for building approval. The establishment of buildings in the region must be carried out in an orderly manner in accordance with its function and the fulfillment of administrative and technical requirements of the building. In order to control the erection of buildings, it is mandatory to have a PBG for the erection of buildings. Basically, the building approval instrument is intended as a regulatory norm in the construction of buildings in the region so that it can be controlled, ordered, and integrated in accordance with the function of the building, safety, and pay attention to the balance of the environment, harmony, and harmony of the building with the environment and regional spatial planning.<sup>6</sup>

It can be seen in Article 14 (1) The architectural requirements of the building as referred to in Article 9 paragraph (1) include the requirements for the appearance of the building, the internal spatial planning, balance, harmony, and harmony of the building with its environment, as well as the consideration of the balance between local socio-cultural values and the application of various architectural and engineering developments. The requirements for the appearance of the building as intended in paragraph (1) must pay attention to the shape and characteristics of the architecture and the surrounding environment.

From the background that has been stated earlier, I would like to research related to the issue of building approval, which was previously known as a certificate in the field of building or building permit. Thus, the following problems can be formulated: What are the legal implications of the enactment of the Job Creation Law on the authority of the Regional Government on the implementation of the Building Approval for the construction of Villas?

### **2. RESEARCH METHODS**

This study uses normative legal research. Normative law research, which is research that examines laws and regulations in a coherent legal system.<sup>7</sup> In this case, the law is a positive norm that applies at a certain time and is issued as a product of a certain political power that has legitimacy. To examine the problems in this study, the approach used is a legislation, concept and comparison approach. Meanwhile, the legal materials used are primary legal materials and secondary legal materials.

The legal materials from the results of the inventory which are then categorized according to the legal issues that will be studied in this case are the principles of legal certainty and certainty in realizing the certainty of investment by business actors, will be described for further argumentation and analysis to get a clearer picture and specifically related to the existing legal rules, the existing principles of justice and legal integrity in the regulation of the Law related to the Building Permit or PBG has not been synchronized with the regulations under it and the rules that are equivalent to the philosophical foundation in the 1945 Constitution of the Republic of Indonesia.

### **3. RESULTS AND DISCUSSION**

#### **Legal Implications of the Enactment of the Job Creation Law on the issuance of Building Approvals in Villa Construction.**

The promulgation of Law Number 6 of 2023 concerning Job Creation has a major impact on Law Number 28 of 2009 concerning Regional Taxes and Regional Levies, especially related to certain types of licensing levies, one of which is the Building Permit (IMB) which is converted into a Building Approval (PBG) which can be levied. In fact, after the promulgation of Law Number 1 of 2022 concerning Financial Relations Between the Central Government and Regional Governments, Law Number 28 of 2009 concerning Regional Taxes and Regional Levies was revoked and declared invalid.<sup>8</sup> Thus, the legal consequence is that the collection of IMB levies no longer has a legal basis. In order to realize the orderly implementation of buildings and ensure the technical reliability of buildings and realize legal certainty in the implementation of buildings in Tanggamus Regency, every building erection in the Region must be controlled with building approval instruments. The implementation of building approvals requires financing aimed at covering part or all of the cost of providing services by the local government.

The dynamics of laws and regulations in the field of buildings related to the dynamics of laws and regulations on ease of doing business, especially after the promulgation of Law Number 6 of 2023 concerning Job Creation encourages the implementation of

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<sup>5</sup> Atmosudirdjo, S. Prajudi, 1986, *Administrative Law*, PT Ghalia Indonesia, Jakarta, p.19

<sup>6</sup> Adrian Sutedi, 2011, *Licensing Law in the Public Service Sector*, Cet. II, Sinar Grafika, Jakarta, p. 212-213.

<sup>7</sup> Soetandyo Wignyoebroto, 1995, *An Introduction to the Discussion on Legal Research Development in PJP II*, (Jakarta: BPHN Ministry of Justice) p.5

<sup>8</sup> In addition to revoking and declaring that Law Number 28 of 2009 concerning Regional Taxes and Regional Levies is invalid, Law Number 1 of 2022 concerning Financial Relations Between the Central Government and Regional Governments also repeals and declares that Law Number 33 of 2004 concerning Financial Balance Between the Central Government and Regional Governments is invalid, as well as amending several provisions in Law Number 23 of 2014 concerning Regional Government

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local government related to building approvals as an instrument for building control. Ease of doing business in the region must be facilitated by the regional government without neglecting its control as an effort to achieve building order and building construction safety.<sup>9</sup>

The concept of authority to issue and cancel KKPR (Suitability of Space Utilization Activities). In the new era, Law Number 6 of 2023 concerning Job Creation (now amended to Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law) is absolutely the authority of the Central Government and can be delegated to the Governor/Mayor/Regent. In Law Number 30 of 2014 concerning Government Administration, it is stated that delegation is the delegation of authority from a higher Government Agency/Official to a lower Government Agency/Official. However, Law Number 23 of 2014 concerning Regional Government does not mention that the relationship between the central and regional governments is a higher/lower relationship between Government Agencies/Officials, which stipulates that the relationship between the central and regional governments is regional autonomy and the Central Government conducts coaching to create synergy between the Central Government and Regional Governments. This means that there needs to be strictness of norms related to the disharmony of laws and regulations that govern the relationship between the central and regional governments if they want to make provisions related to the delegation of authority.<sup>10</sup>

Thus, it can be concluded that the Constitutional Court Decision No. 91/PUU-XVIII/2020 concerning the Job Creation Law has had broad implications, including affecting regional legal products. This study aims to find out the position of the Constitutional Court Decision No. 91/PUU-XVIII/2020 on the formation of Regional Regulations, and aims to find out the position of the Regional Regulation on the implementation of the Job Creation Law after the Constitutional Court Decision No. 91/PUU-XVIII/2020. This study uses normative-empirical legal research with a conceptual approach, a legislative approach and a case approach. Based on the results of the study, first, the position of the Constitutional Court's decision No. 91/PUU-XVIII/2020 on the formation of the Regional Regulation, namely the decision, has ordered the government to adjust and accommodate the technique of the formation of the Job Creation Law into the Law on the Formation of Laws and Regulations. In addition, the implementing rules of the Job Creation Law in the form of a Regional Regulation must be suspended by the local government as an implication of a conditional unconstitutional decision. Second, the position of the Regional Regulation on the implementation of the Job Creation Law that has been passed before the Constitutional Court's decision, is still considered to exist but the implementation of the Regional Regulation must be suspended as a consequence of the ruling Constitutional Court's decision. Associated with the issuance of PBGs, the Head of the Licensing Office is responsible for: Approving PBGs that are considered to have met technical standards, appointing Supervisors from members under him who will supervise the running of PBG management services electronically, and creating SIMBG Accounts for appointed Supervisors. The government has the authority to conduct its own policies or called decentralization. Technology systems are used to provide innovation and convenience to the community.<sup>11</sup> To date, improvements have been made regarding guidelines and innovations. The guidelines provide direction so that the licensing process runs in accordance with its main duties, let alone abilities (duties and main functions). Meanwhile, technology makes it easier for users (officers) to provide community services.

Building Permits (IMB) apply to building permits that can be processed after construction, including also changing, expanding, reducing, maintaining or demolishing buildings.<sup>12</sup> The Building Permit (IMB) was changed to a Building Approval (PBG) which is regulated in Law Number 11 of 2020 concerning Job Creation and Government Regulation Number 16 of 2021. PBG is a permit issued by the government to the owner of a building or its representative.<sup>13</sup> The difference is that PBG applies to start construction, renovate, maintain, or change the building according to the plan, so that spatial governance is more dynamic. The fundamental difference between IMB and PBG is in the form of their use and related to applying for a permit before erecting a building. IMB is in the form of a permit that must be obtained by the building owner before or when erecting a building. In the IMB, the technical building must be attached when applying for a permit.<sup>14</sup> Meanwhile, PBG is in the form of licensing rules that regulate how buildings must be erected. In PBG, building owners are not required to apply for permits before erecting buildings. Before the issuance of the PBG issuance regulations, the license to erect buildings in the Regency/City government is to use IMB,

<sup>9</sup> Putri, Viorizza S., et al. *Authority of Space Utilization Permits after the Job Creation Law*. Edited by Winoto, Darmawan E. Eureka Media Aksara, 2023.

<sup>10</sup> The Binding Force of the Decision on the Submission of Laws by the Constitutional Court against the Decision on the Submission of Laws and Regulations by the Supreme Court of Legislation of Indonesia, Vol 18, No.1, March, 2021

<sup>11</sup> Lutfi, M. (2024). Efektivitas Sistem Informasi Manajemen Bangunan Gedung (Simbg) Dalam Meningkatkan Kualitas Pelayanan Persetujuan Bangunan Gedung (Pbg) Di Kabupaten Bogor. *Jurnal Manajemen Dinamis*, 6(2).

<sup>12</sup> Simbawa, A. (2022). Prosedur Perolehan Persetujuan Bangunan Gedung. *Lex Privatum*, 10(4).

<sup>13</sup> Wijaya, M. (2023). Persetujuan Bangunan Gedung; Inovasi Kebijakan atau Involusi Kebijakan?. *Jurnal Aplikasi Kebijakan Publik Dan Biisnis*, 4(1).

<sup>14</sup> Situngkir, R. (2021). Peralihan Izin Mendirikan Bangunan Menjadi Persetujuan Bangunan Gedung Berdasarkan Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja. *Juris Studia: Jurnal Kajian Hukum*, 2(3), 664-672.

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therefore for buildings that already have IMB, they do not have to replace it with PBG. The IMB can be continued until the licensing period is completed, while for entrepreneurs or individuals who want to build a building or have erected a building and have not yet obtained a building permit, the submission is for the submission of PBG electronically or SIMBG.<sup>15</sup>

As a result of the law enactment of Law Number 6 of 2023 on the issuance of building approvals, Building Approvals (PBG) in the City/Regency Government are on Regional Original Revenue (PAD), so tariff adjustments must be made selectively within the framework of regional autonomy and fiscal decentralization that gives authority to regions in mobilizing regional revenue. PBG regulates business actors structurally the construction of buildings starting from spatial planning, building types, building models, and others, regulated in the law, so that buildings built by business actors become more orderly. PBG also makes city governance more dynamic with strategic goals and principles that are harmonized from the local government.

#### 4. CONCLUSION

The legal implication of the enactment of Law Number 6 of 2023 on the issuance of PBG building approvals in the City/Regency Government is on Regional Original Revenue (PAD) so that tariff adjustments must be carried out selectively within the framework of regional autonomy and fiscal decentralization which gives authority to regions in mobilizing regional revenue. PBG regulates business actors structurally the construction of buildings starting from spatial planning, building types, building models, and others, regulated in the law, so that buildings built by business actors become more orderly. PBG also makes city governance more dynamic with strategic goals and principles that are harmonized from the local government.

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<sup>15</sup>Sri Hilda Haswin, O. (2024). *Pengaturan Persetujuan Bangunan Gedung Di Kota Payakumbuh* (Doctoral dissertation, Universitas Andalas).