



## Comparison of Bankruptcy Application Procedures Between Regional-Owned Enterprises (BUMD) and State-Owned Enterprises (BUMN)

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**Abstract.** This study aims to compare the bankruptcy application procedures between State-Owned Enterprises (BUMN) and Regional-Owned Enterprises (BUMD). Bankruptcy is a condition that significantly impacts economic stability, both nationally and regionally. In this case, both types of enterprises are regulated by different regulations but with similar underlying principles. Therefore, this research examines the differences and similarities in bankruptcy procedures for BUMN and BUMD, as well as the authority each possesses in the bankruptcy application process. Additionally, this study highlights the importance of harmonizing regulations governing bankruptcy procedures to ensure the coherence of the prevailing legal system. The research method used is normative legal research with a legislative approach and a conceptual approach. This research reveals that although there are similarities in objectives, significant procedural differences require adjustments to create uniformity and legal certainty in resolving bankruptcy issues for both types of enterprises.

**Keywords:** Bankruptcy, BUMN, BUMD.

### 1. INTRODUCTION

State-Owned Enterprises (BUMN) are entities with legal, technical, and economic status, playing a role in providing public services and contributing to the development of the national economy. [1] According to Article 1 of Government Regulation No. 45 of 2005 concerning the Establishment, Management, and Dissolution of BUMN, BUMN is defined as a business entity where all or the majority of its capital is owned by the Government of Indonesia through direct allocations from separated state assets. Similarly, Regional-Owned Enterprises (BUMD) have a comparable definition. Article 1 of Government Regulation No. 45 of 2017 concerning Regional-Owned Enterprises states that BUMD is a business entity that is predominantly or entirely owned by the regional government. Furthermore, Article 41 paragraph (5) of Law No. 1 of 2004 on State Finances establishes that regional government capital participation in state, regional, or private enterprises is determined through regional regulations. Thus, it can be concluded that state-owned and regional-owned enterprises are managed by specific government organs that have tasks and authorities according to statutory regulations. Both BUMN and BUMD, as legal entities, are treated as legal subjects with rights and obligations like other legal subjects or individuals. [2]

State-Owned Enterprises (BUMN) have a strategic position in Indonesia's economy due to their vital role in essential sectors that support economic and social life. [3] BUMN functions as a government tool to achieve macroeconomic objectives such as improving

public welfare, equitable development, and managing natural resources. BUMN is involved in sectors that significantly impact the lives of society and the country, such as energy where PT Pertamina and PT PLN are responsible for providing energy (oil, gas, and electricity), which are fundamental needs for almost all economic sectors, from industries to households. In infrastructure, PT Angkasa Pura, PT Kereta Api Indonesia, and PT Jasa Marga play important roles in building and managing transportation infrastructure, which is the backbone of the Indonesian economy. In transportation, PT Garuda Indonesia and PT Pelni are BUMN providing air and sea transport, which are vital for population mobility and goods distribution across Indonesia, consisting of thousands of islands. In telecommunications, PT Telekomunikasi Indonesia (Telkom) and PT Indosat Ooredoo are the primary providers of telecommunication and internet services, essential for driving digital economic growth in Indonesia. BUMN also plays a role in stabilizing the economy by managing substantial national assets. Additionally, BUMN often functions as government policy instruments to intervene in the market, maintain price stability, or provide goods and services that are not accessible by the private sector. [4]

In contrast to BUMN, Regional-Owned Enterprises (BUMD) focus more on the needs and economic development of the local region. BUMD is established by the local government to support economic activities aimed at improving the welfare of local communities. [5] Several key roles of BUMD in the regional economy include providing basic public services, such as clean water, energy, and local transportation. For example, the Regional Drinking Water Company (PDAM) provides clean water services, while BUMD in transportation provides public transportation for local mobility. BUMD supports priority economic sectors in the region, such as agriculture, tourism, or local industries. For instance, a BUMD can play a role in managing local natural resources, which in turn can increase regional revenue and create jobs. BUMD also plays a role in optimizing the economic potential of the region, such as managing local markets, agricultural products, or other regional businesses that can generate income for the area. Revenues generated from BUMD will enhance the fiscal capacity of the local government, enabling improvements in public service quality and infrastructure development. Both BUMN and BUMD significantly contribute to state and regional revenues. BUMN contributes through dividends provided to the central government, which are used to finance national development programs. Moreover, BUMN also contributes to creating jobs, increasing national productivity, and strengthening Indonesia's competitiveness in the global market.

BUMD contributes to equitable development by accelerating economic growth in various regions. They also provide basic services that help improve the quality of life for people in the region, reducing the gap between the center and the periphery and encouraging a more even distribution of wealth. Revenues obtained from BUMD will be used to enhance infrastructure quality and public services in the region, which is crucial for promoting local economic development. Both BUMN and BUMD also play a role in maintaining Indonesia's overall economic stability. BUMN often acts as market stabilizers by providing strategic goods and services that society needs. Furthermore, BUMD also plays an important role in supporting regional economies, contributing to overall economic stability. In facing economic crises or other emergency situations, both BUMN and BUMD can serve as policy instruments to maintain economic sustainability.

Bankruptcy serves more than just a mechanism for resolving debt payment issues; it is also a vital legal protection instrument for creditors and related parties, including the public who may be affected by the operational failures of public enterprises. [6] In the case of BUMN and BUMD, bankruptcy ensures that the enterprises fulfill their obligations to creditors and protects public interests by regulating the resolution of debts transparently and fairly. Bankruptcy can also regulate the management of assets available for debt payment and guarantee the sustainability of public services provided by BUMN and BUMD.

Even though BUMN and BUMD are both state-owned enterprises, there are fundamental differences in their organizational structures and management that affect their bankruptcy procedures. BUMN is managed by the central government with a broader business orientation aimed at supporting national economic growth, whereas BUMD is managed by local governments with a focus on local economic development and meeting community needs. These differences in authority imply differences in regulations and applicable bankruptcy procedures, making it a crucial factor to analyze in this study. BUMN and BUMD often face various challenges in financial management that can affect their financial stability. BUMN is often pressured by political and social factors affecting financial decisions, while BUMD faces challenges in managing limited regional budgets and financing constraints. Difficulties in maintaining liquidity, ineffective debt management, or even potential financial mismanagement can increase the risk of bankruptcy for these enterprises. Therefore, regulations governing bankruptcy procedures are crucial to addressing these challenges and ensuring that bankruptcy can be managed effectively. [7]

Clear and structured regulations in bankruptcy procedures are essential to provide legal guidance for both BUMN and BUMD when facing serious financial difficulties. Well-

organized bankruptcy procedures ensure that necessary steps can be taken efficiently, fairly, and transparently. Although there are regulations governing bankruptcy for both BUMN and BUMD, each has particularities that influence the course of these procedures. Therefore, this research is significant in understanding how different regulations can be adjusted to meet each entity's practical needs and the challenges they face. Based on the brief overview provided, this discussion will cover the comparison of bankruptcy procedures between State-Owned Enterprises and Regional-Owned Enterprises, the authority in the bankruptcy application procedures, and the harmonization of regulations in the bankruptcy procedures of State-Owned Enterprises and Regional-Owned Enterprises.

## **2. METHOD**

The normative legal research method focuses on the study of documents and legal norms. This method aims to analyze the applicable legal rules and how these rules are implemented or interpreted in a particular regulatory setting. In normative legal research, the primary sources used include regulations and other legal literature. This approach is highly relevant for examining theoretical and conceptual legal issues, such as the need to explore the comparison of bankruptcy procedures between State-Owned Enterprises and Regional-Owned Enterprises, their authority in bankruptcy application procedures, and the harmonization of regulations in the bankruptcy procedures of State-Owned Enterprises and Regional-Owned Enterprises. One of the approaches used in this method is the statutory approach and the conceptual approach. [8] The statutory approach is conducted by reviewing and analyzing various rules governing specific issues, such as Government Regulation No. 45 of 2005 concerning the Establishment, Management, and Dissolution of State-Owned Enterprises, Government Regulation No. 45 of 2017 concerning Regional-Owned Enterprises, and related regulations. Through this approach, researchers can discuss the need to explore the comparison of bankruptcy procedures between State-Owned Enterprises and Regional-Owned Enterprises, their authority in bankruptcy application procedures, and the harmonization of regulations in the bankruptcy procedures of State-Owned Enterprises and Regional-Owned Enterprises.

### 3. RESULT AND DISCUSSION

#### **Comparison of Bankruptcy Procedures between State-Owned Enterprises and Regional-Owned Enterprises**

Article 33 paragraph (2) of the 1945 Constitution states that branches of production vital for the state and those dominating the lives of many must be controlled by the state. In wealth allocated for supporting the prosperity of the people, the state holds authority. If state wealth is allocated for the development of production branches, including in the establishment of BUMN and BUMD, the process of seizure can still be conducted. This is because the assets initially belonging to the state or region for establishing BUMN or BUMD, after allocation, are no longer owned by the state or region but become the property of the respective BUMN or BUMD.

Therefore, the assets owned by a limited liability company (*persero*) or a public company (*perum*), as a legal entity, cannot be regarded as state assets. As legal entities, BUMN and BUMD have rights and obligations as separate legal subjects, similar to individuals. Consequently, the assets owned by BUMN or BUMD in the form of limited liability companies or public companies do not fall under the definition of "state assets" regulated in Article 50 of Law No. 1 of 2004 concerning State Finances, which prohibits anyone from seizing state assets, including money or securities owned by the state, movable or immovable goods owned by the state, and goods necessary for the administration of government.

In terms of legal efforts, Article 11 paragraph (1) of the BUMN Law grants the right to parties dissatisfied with bankruptcy application decisions to request cassation to the Supreme Court within eight days of the ruling being pronounced. Additionally, Article 14 paragraph (1) of Law No. 37 of 2004 provides an opportunity to request a review of a bankruptcy ruling that has permanent legal force. Regarding the organizational structure, Article 37 of the BUMN Law stipulates that in a public company (*perum*), there are three main organs: the Minister, the Directors, and the Supervisory Board. The Minister of BUMN is tasked with formulating and determining policies in the area of BUMN empowerment and coordinating and synchronizing the implementation of those policies, as outlined in Presidential Regulation No. 24 of 2010 regarding the Position, Duties, and Functions of State Ministries as well as the Organization Structure, Duties, and Functions of Echelon Bodies. The Directors are responsible for the duties and authorities regulated in Articles 49 to 51 and Article 54, which include several points as follows:

1. Drafting a long-term strategic plan aligned with the goals and objectives of the public company, which is then signed by the Supervisory Board and approved by the Minister.
2. Drafting a work plan and budget proposal submitted to the Minister for approval.
3. The Directors must submit an annual report to the Minister for approval.
4. The Directors must keep the minutes of meetings and manage the financial records of the public company.

Under Article 55 of the BUMN Law, the Directors are responsible for the bankruptcy of the public company and must submit a bankruptcy application to the district court, requiring the Minister's approval. If bankruptcy results from the misconduct or negligence of the Directors and the public company's assets are insufficient to cover the losses, each member of the Directors is jointly liable. Members of the Directors who can prove that the bankruptcy was not due to their fault will not be jointly responsible for the losses incurred. If the actions of the Directors cause losses to the public company, the Minister has the right to represent the public company in filing claims or lawsuits against the Directors in court. The Supervisory Board's role is to oversee the Directors' duties in managing the public company and provide advice to them, as specified in Article 60 of the BUMN Law. The authority of the Supervisory Board is stipulated in Article 61, including approving the Directors for specific legal actions and taking management actions in specific situations for a certain period. The Supervisory Board is responsible for the public company's bankruptcy if its cause originates from the negligence or misconduct of the Supervisory Board, unless proven otherwise.

According to Article 29 of Government Regulation No. 54 of 2017, the organs of the Regional Public Company (Perumda) consist of the Capital Owner Proxy (KPM), the Supervisory Board, and the Directors. The KPM, as regulated in Article 1 point 13 of the BUMD Regulation, is the official representing local government in local wealth ownership that is separated in the public company. The KPM holds the highest authority in the public company and is responsible for matters not assigned to the Directors or the Supervisory Board. The KPM also plays a role in decision-making concerning the bankruptcy application of the public company (Article 15 paragraph (1) of Regional Regulation No. 19 of 2019 on Local Water Public Companies). The KPM cannot be held liable for losses due to bankruptcy if he/she can prove no personal interest, involvement in unlawful acts, or misappropriation of the public company's assets. The Supervisory Board of the public company has duties and

authorities according to Article 43 paragraph (1) of Government Regulation No. 54 of 2017, which include:

1. Overseeing the public company,
2. Supervising and advising the Directors in managing the public company.

The Supervisory Board must report the results of its supervision to the KPM and prepare and retain meeting minutes, as dictated by Article 43 paragraph (2). The Directors, according to Ministerial Decree No. 50 of 1998 regarding BUMD Management, define the duties of the Directors of the public company in Article 6, which include:

1. Leading and controlling BUMD activities,
2. Submitting five-year work plans and budgets to the Supervisory Board,
3. Making changes to work programs after obtaining approval from the Supervisory Board,
4. Training employees,
5. Managing BUMD's assets,
6. Carrying out general and financial administration,
7. Representing BUMD in and out of court,
8. Submitting periodic reports on BUMD activities.

The authorities of the Directors of the public company are regulated in Article 7, which includes: appointing and dismissing employees, managing balance sheets and profit and loss reports, as well as signing legal binds with third parties.

Regarding the entire documentation, minutes, financial documents, and other documents belonging to the Company must be kept at the Company's headquarters. Based on a written request from shareholders, the Directors may grant permission to shareholders to examine the shareholders' list, specific lists, minutes of General Shareholders Meetings (RUPS), and obtain copies of RUPS minutes and annual reports. Each member of the Directors must report to the Company on the shares held by them and/or their families in the Company or other Companies to be recorded in a specific list. Members of the Directors who fail to perform these obligations and result in losses for the Company will be personally accountable for the losses incurred, as stipulated in Article 101 of the Limited Liability Company Law (UUPT). Company's assets exceed 50% of the total net assets of the Company in one or more transactions, whether interconnected or not. In addition to the duties listed above, the Directors' obligations may be further stipulated in the articles of association of the Company.

The authority of the Directors to represent the Company is only valid based on the approval of the General Shareholders Meeting concerning bankruptcy matters. The Board of Commissioners is the Company's organ tasked with conducting general and/or specific supervision according to the articles of association and providing counsel to the Directors per Article 1 point 6 of UUPT. The Board of Commissioners supervises the policies of the management and the general course of management by the Company, both in relation to the Company and the business conducted by the Directors. The Board of Commissioners also provides advice to the Directors, including oversight of the Long-Term Company Plan, Work Plan, Budget Compliance, and adherence to the Company's Articles of Association, General Shareholders Meeting (RUPS) decisions, and applicable regulations in the interest of the Company and as per the Company's aims.

In terms of bankruptcy applications, both creditors and debtors have the right to submit bankruptcy applications to the Commercial Court, as stated in the Bankruptcy Law and Suspension of Debt Payment Obligations (PKPU). However, there are differences regarding who is authorized to file bankruptcy applications when the debtor is a State-Owned Enterprise (BUMN). Bankruptcy applications against BUMN can only be filed by the Minister of Finance, as regulated in Article 2 paragraph (5) of Law No. 37 of 2004 on Bankruptcy and PKPU. The explanation of this article states that the BUMN refers to the State-Owned Enterprises involved in public interests, entirely owned by the state, and not divided into shares. However, this definition contradicts the understanding of BUMN stated in Article 1 point 1 of Law No. 19 of 2003, which states that BUMN is a business entity partly or entirely owned by the state through direct participation using separated state wealth.

In the bankruptcy judicial practice, applications for bankruptcy against BUMN in the form of a limited liability company are often rejected on the grounds that only the Minister of Finance has the authority to file such bankruptcy applications. This occurs due to overlapping regulations regarding BUMN's bankruptcy, which results in inconsistencies in court decisions in examining and adjudicating bankruptcy cases against BUMN. The uncertainty regarding who has the authority to submit bankruptcy applications to the Commercial Court causes many bankruptcy cases involving BUMN in the form of limited liability companies to be rejected at the Cassation level.

In contrast, the regulations concerning the redundant definitions of BUMN, which lead to inconsistencies in the Commercial Court's rulings regarding the bankrupt parties, Government Regulation No. 54 of 2017 concerning Regional-Owned Enterprises (BUMD) implicitly regulates that bankruptcy applications against BUMD in the form of public



companies and limited liability companies can only be submitted by the Regional Head and the Regional People's Representative Council (DPRD). Thus, the Regional Head and DPRD have the role to discuss decisions regarding the bankruptcy of BUMD, in accordance with the principle of regional autonomy as regulated in Government Regulation No. 54 of 2017. In this case, the bankrupt debtor can be both a State-Owned Enterprise (BUMN) and a Regional-Owned Enterprise (BUMD), typically requiring the involvement of specific government institutions or organs to apply for bankruptcy.

The mechanisms for bankruptcy applications for State-Owned Enterprises (BUMN) and Regional-Owned Enterprises (BUMD) exhibit similarities in terms of managing the general execution of seizure of both types of enterprises' assets. Additionally, similarities can be observed in the duties and authorities of the organs within BUMN and BUMD, as well as the legal remedies that can be submitted by both applicants and defendants in bankruptcy. This reflects a degree of procedural uniformity in resolving bankruptcy cases, even though the forms of ownership differ, whether state or regional. Regarding the trial process for bankruptcy cases, both for BUMN and BUMD are conducted through relatively quick and straightforward procedures. This process follows the same timeline from the first instance to the appeal process, indicating that despite differences in bankruptcy arrangements for both types of enterprises, they still adhere to efficient and transparent procedures concerning case resolution timelines. This speed and simplicity align with the principle of efficiency in the Indonesian bankruptcy legal system, which aims to resolve disputes swiftly without diminishing the quality of justice.

The fundamental difference lies in the mechanism for submitting bankruptcy applications. BUMD adheres to a more autonomous mechanism, granting authority to the Regional Head and the Regional People's Representative Council (DPRD) to file bankruptcy applications. This aligns with the principle of regional autonomy, where regions possess greater authority over managing the bankruptcy of their owned enterprises. Conversely, BUMN follows a more centralized application mechanism, where the authority to file for bankruptcy is exclusively granted to the Minister of Finance. This difference reflects the structural and managerial distinctions between enterprises owned by the national government and those owned by regional governments. Despite the contrasting mechanisms for filing bankruptcy applications, the prevailing regulations remain relevant to govern both types of enterprises. Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations provides a legal framework binding and applicable to all entities applying for bankruptcy, including BUMN and BUMD. Therefore, although there are differences regarding the

authority of filing applications, existing regulations serve as the primary guidelines for these bankruptcy procedures.

### **Authority in Bankruptcy Application Procedures and Harmonization of Regulations in the Bankruptcy Procedures of State-Owned Enterprises and Regional-Owned Enterprises.**

The authority to file bankruptcy applications against State-Owned Enterprises (BUMN) is governed by Article 2 paragraph (5) of Law No. 37 of 2004 concerning Bankruptcy and the Suspension of Debt Payment Obligations (UUK-PKPU). According to this provision, bankruptcy applications against BUMN can only be submitted by the Minister of Finance of the Republic of Indonesia. This indicates that the authority to file for bankruptcy in BUMN is centralized, differing from other enterprises where either the debtor or creditor may submit such applications. The decision to empower the Minister of Finance in this context stems from the principle that BUMN is a business entity whose entire capital is owned by the state, managed for public interest. Hence, filing for bankruptcy against BUMN involves not only a legal business matter but also considerations of national and public interests. Thus, the involvement of the Minister of Finance as the principal decision-maker regarding bankruptcy applications aims to maintain a balance between state interests, creditors, and the sustainability of BUMN operations that are crucial to the national economy.

This centralized bankruptcy application process reflects the state's efforts to mitigate any risks that BUMN bankruptcy may pose to the national economy. Furthermore, this mechanism provides greater control for the state in overseeing and managing enterprises operating in vital sectors essential for society. For example, if a BUMN engaged in energy, transportation, or banking were to be liquidated or become bankrupt, it could have widespread implications for the economy and public welfare. In contrast, the authority bestowed upon the Minister of Finance also signifies a principle of caution and stricter oversight in handling financial issues in enterprises whose entire capital is sourced from state assets. This aims to ensure that decisions concerning bankruptcy are taken with a broader perspective, considering their impact on the national economy, compliance with obligations to the state, and safeguarding public assets involved in the BUMN. In other words, this regulation underlines that BUMN is not merely a commercial entity but also possesses a more significant social and economic function for the country and society.

Conversely, the authority to file bankruptcy applications against Regional-Owned Enterprises (BUMD) contrasts significantly with BUMN, as the bankruptcy extension for BUMD tends towards an orientation of autonomy. This means that the authority to file

bankruptcy applications in BUMD lies with the Regional Head and the Regional People's Representative Council (DPRD). This regulation is set forth in Government Regulation No. 54 of 2017 concerning Regional-Owned Enterprises (PP BUMD), which allows local governments greater latitude in managing BUMD, including decisions related to bankruptcy applications. The principle of regional autonomy embedded in Indonesia's governance system endows local governments with broader authority in various aspects, including BUMD management. Thus, the Regional Head and DPRD are fully responsible for determining whether a certain BUMD requires a bankruptcy application. This step must align with local interests and consider factors such as socio-economic effects on local communities and the continuity of public services provided by the particular BUMD. Consequently, the decision concerning any BUMD's bankruptcy application heavily relies on local policies and financial management.

Given this authority, the Regional Head and DPRD must take careful consideration before proceeding with legal actions to file for bankruptcy against a BUMD. This decision impacts not only the financial and operational aspects of the BUMD, but also the welfare of the community that relies on the services the BUMD provides. For instance, if a BUMD positioned within critical services like clean water, electricity, or public transportation faces bankruptcy, local people will be directly affected. Consequently, the Regional Head and DPRD must judiciously weigh this decision as a last resort. As part of the principle of regional autonomy, this authority also demonstrates that local governments hold full responsibility for managing and overseeing BUMD. Hence, the Regional Head and DPRD not only have the authority to reach decisions regarding bankruptcy matters, but are also expected to proactively work to prevent bankruptcy by implementing good and efficient management policies. This includes restructuring, administrative improvements, and enhancing transparency in BUMD's financial management before pursuing more drastic actions like bankruptcy filings. As a result, the authority held by the Regional Head and DPRD in filing for BUMD bankruptcy embodies the implementation of decentralization and regional autonomy principles, whereby local governments are empowered to oversee their domestic affairs, including issues concerning their owned enterprises' bankruptcy.

The authority to submit bankruptcy applications against Regional-Owned Enterprises (BUMD) is characterized by autonomic authority, signifying that the bankruptcy application cannot be filed arbitrarily by external parties but must converge through local authority, namely the Regional Head and the Regional People's Representative Council (DPRD). This is articulated in Government Regulation No. 54 of 2017 concerning Regional-Owned

Enterprises (PP BUMD), which extends more considerable authority to local governments in managing and supervising BUMD. In this light, the Regional Head and DPRD hold full responsibility to determine whether a BUMD should be subjected to bankruptcy proceedings. This decision comes from various considerations, including the social and economic impacts on the local populace and the continuity of public services facilitated by the BUMD. This action must also highlight principles of regional autonomy to enable local governments in overseeing their financial management and regional policies in alignment with community needs and interests.

The existing principles of regional autonomy in Indonesia grant local governments the flexibility to determine policy directions and deals with ongoing management of their region, including decisions around BUMD's bankruptcy. Consequently, the Regional Head and DPRD fully possess authority in these regards, enabling them to deliberate judiciously on whether a BUMD merits a bankruptcy application. Such decisions not only influence the financial and operational sustainability of the BUMD but also directly affect the populace reliant on the public services provided by these enterprises. Thus, cautious and well-considered judgments are expected in the decision to file for bankruptcy to avoid extreme measures that could adversely affect communal welfare.

Furthermore, as part of the regional autonomy principles, the authority held by the Regional Head and DPRD for applying for bankruptcy applications reflects an integral responsibility of local government toward managing BUMD. In this scope, local governments are called not only to make legal decisions regarding bankruptcy but are also expected to act proactively in sustaining BUMD operations. This includes implementing policies that enhance BUMD management before bankruptcy considerations are enacted, such as organization restructuring, management improvements, or enhancing transparency within BUMD's financial oversight. Taking these measures can allow for the avoidance of bankruptcy and enable BUMD to operate more effectively without needing to resort to detrimental resolutions impacting community welfare. Therefore, this authority becomes a crucial part of local governance responsibilities to ensure optimal functionality of BUMD serving public interests while still adhering to standards of efficiency and transparency in its management.

The authority of the Regional Head and DPRD to file for bankruptcy concerning the BUMD represents the application of decentralization and regional autonomy principles, which endow districts the rights to govern their domestic affairs, including matters regarding BUMD management. This authority allows local governments total control over their

BUMD, particularly for critical issues like bankruptcy applications. This reflects that decisions surrounding BUMD must align with local conditions and interests, ensuring that policies adopted serve to address the needs more effectively and accurately. Thus, it is expected that local governments will adopt policies that prioritize public interests and maintain vital public services while concurrently considering aspects of financial management and efficiency in BUMD oversight.

#### **4. CONCLUSION**

The regulations concerning authority and processes for bankruptcy applications must involve relevant parties, such as the Minister of Finance for BUMN or the Regional Head and DPRD for BUMD. This indicates the critical influence of government in managing financial issues concerning the bankruptcy of state and regional enterprises. These procedures aim to safeguard the interests of the state or region regarding public asset management, ensuring economic stability, and public services reliant on the ongoing operations of BUMN and BUMD. Moreover, the inconsistencies within legal frameworks surrounding BUMN bankruptcy, particularly those structured as limited liability companies, which can only be filed by the Minister of Finance, have created legal uncertainties. This uncertainty can lead to economic damages for involved parties, such as creditors or entities in need of speedy and clear legal resolutions. Such ambiguity results in ineffective legal processes that may culminate in the annulment of bankruptcy applications in courts. It is essential to ensure that existing regulations do not contradict each other, especially in managing BUMN and BUMD under national or local government authority. Reforms or adjustments to current regulations may be necessary to clarify who has the authority to file bankruptcy applications for BUMN or BUMD situations, thereby providing legal certainty for parties involved in these bankruptcy cases. Additionally, further regulations addressing supervision, management, and accountability within the BUMN and BUMD organizational structures should be enhanced to ensure transparency and accountability in financial and operational management. Because, without effective oversight, the risks of bankruptcy escalate, alongside implications on economic stability and public trust toward state and regional governance.

The authority to file bankruptcy applications against State-Owned Enterprises (BUMN) and Regional-Owned Enterprises (BUMD) reflects the basic fundamental differences in managing these entities, each regulated per public interest and decentralized power. For BUMN, bankruptcy application authority is centralized under the Minister of Finance,

balancing national interests, creditors, and the operational continuance of BUMN that has strategic roles in national economics. Conversely, BUMD's authority is more autonomously assigned to the Regional Head and DPRD, carrying substantial responsibilities in managing and monitoring BUMD according to local policies and community interests. While these regulatory differences persist, both require careful consideration before initiating bankruptcy proceedings, taking into account societal and economic effects on residents and continuity of public services. Therefore, irrespective of their BUMN or BUMD status, fundamental principles of prudence, transparency, and efficiency become increasingly paramount in financial management and policy-making to minimize bankruptcy risks and ensure that decisions reach beyond mere financial facets to encompass broader repercussions for economic health and community welfare.

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