

LEGAL PROVISIONS OF FOREIGN INVESTMENT IN BADUNG REGENCY - BALI

Anak Agung Istri AGUNG¹, I Nyoman Sukandia², I Nyoman Sujana³

^{1,2,3}Faculty of Law, Warmadewa University, Bali, Indonesia

Corresponding author: Anak Agung Istri Agung

E-mail: notistriag@gmail.com

Info Artikel:

Received: 2024-09-01

Vol: 2

Keywords:

Types of investment,
foreigners, legal
protection.

Revised: 2024-10-25

Number: 2

Abstract:

The progress of the Indonesian nation is also supported by the presence of investors who are willing to invest in important domestic sectors. Investment is one of the instruments that drives economic progress in Indonesia, especially in Badung Regency - Bali. Many foreigners come to Bali for various purposes, including vacationing while doing business, working, learning about culture, doing research, or investing. Recently, there have been many foreign business activities involving property rental (land and buildings) either by individuals or in the form of PT PMA (Limited Liability Company with Foreign Investment) in Indonesia. This study aims to determine and understand the legal provisions for foreign investment in Bali, especially in Badung Regency and legal protection for foreigners investing in Bali based on applicable provisions. The method used in this study is normative legal research to find the type of investment and legal protection for foreigners investing in Bali based on applicable provisions.

Accepted: 2024-12-15

Page: 55 - 58

INTRODUCTION

The progress of the Indonesian nation is also supported by the presence of investors who are willing to invest in important domestic sectors. Investment is one of the instruments that drives economic progress in Indonesia, especially in Badung Regency - Bali. Many foreigners come to Bali for various purposes, including vacationing while doing business, working, learning about culture, doing research, or investing. Lately, many foreign business activities have been renting property (land or buildings) either by individuals or in the form of PT PMA (Limited Liability Company with Foreign Investment) in Indonesia. Based on the above, the researcher is interested in studying foreign investment, using normative research methods, with 2 problem formulations: (1) What are the provisions for types of investment for foreigners in Badung Regency - Bali? (2) How is the legal protection for foreigners who invest in Badung Regency - Bali based on applicable provisions? This study is entitled Legal Provisions for Foreign Investment in Bali.

METHODS

The type of research used in this study is Normative legal research, with a normative legal approach, namely an approach based on the main legal material, by examining theories, concepts, legal principles and laws and regulations (statute approach) related to this research, also called a literature approach, namely by studying books, laws and regulations and other related documents. The stages in this research are identifying the problem to determine the discussion detailing the sub-topics, which are then used as the basis for collecting legal materials, processing and analyzing and as a basis for making a systematic of the research results to become a legal research result.

RESULT AND DISCUSSION



This open-access article is distributed under a
Creative Commons Attribution (CC-BY-NC) 4.0 license

Provisions on Types of Investment for Foreigners in Badung Regency - Bali. Provisions on types of investment for foreigners in Badung Regency - Bali are subject to provisions stipulated through laws and regulations, including the Badung Regency Regional Regulation. However, local wisdom, such as provisions stipulated by local customary rules, are enforced, as long as they do not conflict with provisions stipulated by state law. Therefore, foreigners or PMA Companies wishing to invest in Badung Regency must pay attention to the laws that strictly regulate it and the provisions stipulated by local customary law. The provisions for the type of investment for foreigners in Indonesia and in Badung Regency - Bali must pay attention to the provisions stipulated by state law through several laws and regulations, namely what is regulated and required in Law Number 25 of 2007 concerning Investment, Law Number 40 of 2007 concerning Limited Liability Companies, Regulation of the Head of the Central Statistics Agency Number 2 of 2020 concerning the Classification of Standard Business Fields in Indonesia, Government Regulation of the Republic of Indonesia Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration, Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2023 concerning Job Creation into Law. However, foreigners who carry out business activities and invest in Badung Regency are more interested in the property sector, especially those related to the tourism sector, such as villa housing, rafting, and restaurants, which are carried out through cooperation, renting or with a right of use.

Based on an interview with Mr. Dr. Ir. I MADE AGUS ARYAWAN ST. MT, as the Head of the Investment and One-Stop Integrated Service Office (DPMPTSP) of Badung Regency on September 10, 2024, stated that the number of foreigners investing in Badung Regency from 2020 to June 2024 was 40,046 people. It has been proven that the economic development of Badung is very advanced compared to other regencies in Bali because investors are interested in investing their capital the most in Badung Regency. The types of investments attractive to foreigners (Foreign Nationals/PMA Companies) who invest in Badung Regency on the OSS dashboard are the Trade, Public Works, and Spatial Planning and Tourism sectors. The legal basis for business actors who do business or invest in Badung Regency, including foreigners, is:

- Regulation of the Head of the Investment Coordinating Board No. 4 of 2021 concerning Guidelines and Procedures for Risk-Based Business Licensing Services and Investment Facilities
- Government Regulation No. 5 of 2021 concerning the Implementation of Business Licensing,
- Government Regulation No. 6 of 2021 concerning the Implementation of Business Licensing in the Regions,
- Presidential Regulation No. 49 of 2021 concerning Investment Business Fields amending Presidential Regulation No. 10 of 2021 concerning Investment Business Fields.

Legal Protection for Foreigners Investing in Badung Regency - Bali Based on Applicable Provisions. Legal protection for foreigners investing in Badung Regency - Bali, as stipulated in the latest laws and regulations as stipulated in the Job Creation Law and through Regional Regulations to follow up on what is mandated in the laws and regulations of the Republic of Indonesia. However, the Badung Regency government is taking policy steps in order to protect investors who bring prosperity to the community through invested capital through several efforts, namely service/services for regulatory transparency and implementation of regulations with the openness of information and ease in the business licensing process, as mandated by laws and regulations, thus encouraging foreign investors to carry out their investment activities legally in accordance with applicable provisions, so that the state is present through laws and regulations as a legal umbrella

in providing protection in every business/investment/capital investment activity carried out which encourages the economy and people's welfare.

Based on an interview with Mr. Dr. Ir. I MADE AGUS ARYAWAN ST. MT, as the Head of the Investment and One-Stop Integrated Service Office (DPMPTSP) of Badung Regency on September 10, 2024, stated that legal protection for foreigners investing in Badung Regency - Bali based on applicable provisions is by providing legal efforts in legal protection for foreigners investing in Badung Regency - Bali as stipulated in Article 16 of Badung Regency Regional Regulation Number 3 of 2022 which states that Every Investor has the right to receive:

- a) certainty of rights, law and protection;
- b) open information regarding the business sector being run;
- c) service rights, and
- d) various forms of convenience facilities according to the provisions of the laws and regulations.

CONCLUSION

1. The provisions for the type of investment for foreigners in Badung Regency - Bali as stipulated by the government of the Republic of Indonesia through several laws and regulations, namely what is regulated and required in Law Number 25 of 2007 concerning Investment, Law Number 40 of 2007 concerning Limited Liability Companies, Regulation of the Head of the Central Statistics Agency Number 2 of 2020 concerning the Classification of Indonesian Standard Business Fields, Government Regulation of the Republic of Indonesia Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration, Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2023 concerning Job Creation into Law. However, foreigners who carry out business activities and invest in Badung Regency are more interested in the property sector, especially those related to tourism, such as villa housing, rafting, and restaurants, which are carried out through cooperation, renting or investment in the form of land rights with a right of use.
2. Legal protection for foreigners investing in Badung Regency - Bali based on applicable provisions is as follows: through service/service of regulatory transparency and implementation of regulations with openness of information and ease in the business licensing process, as mandated by laws and regulations, thus encouraging foreign investors to carry out their investment activities legally in accordance with applicable provisions, so that the state is present through laws and regulations as a legal umbrella in providing protection in every business/investment/capital investment activity carried out which encourages the economy and people's welfare.
3. It is expected that the Badung Regency government will implement more transparent and openly accessible provisions, which can be easily accessed by all people, local and foreign investors, related to the types of investments that are possible to be developed in Badung Regency, including simplifying and facilitating all permits, as long as they do not conflict with applicable legal provisions and respect the values that exist in society, which also include local wisdom.
4. 1) It is expected that the Badung Regency government will implement more transparent and openly accessible provisions, which can be easily accessed by all people, local and foreign investors, related to the types of investments that are possible to be developed in Badung Regency, including simplifying and facilitating all permits, as long as they do not conflict with

applicable legal provisions and respect the values that exist in society, which also include local wisdom; 2) The Badung Regency government should implement Regional Regulations that encourage investment consistently, and implement all existing provisions, including accommodating existing local wisdom, so that investment and the interests of the Badung community run in harmony, thus creating order in community life, creating prosperity for the community at large and Badung can be a good example nationally and internationally, that Badung is able to develop and be modern without leaving local wisdom, safe, and comfortable, so that Badung becomes an investment destination for domestic and foreign investors.

REFERENCES

- Ali, A. (2009). Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicial Prudence). Kencana Predana Media Group.
- Badung rajai destinasi investasi di Bali. (n.d.). Retrieved August 1, 2024, from <https://nusabali.com/berita/139134/badung-rajai-destinasi-investasi-di-bali>
- Kitab Undang-Undang Hukum Perdata (KUHPerdata).
- Mertokusumo, S. (2002). Hukum Acara Perdata Indonesia. Liberty.
- Pemkab Badung Bali tawarkan investasi di wilayah tengah dan utara. (n.d.). Retrieved September 6, 2024, from <https://antaranews.com/berita/4169631/pemkab-badung-bali-tawarkan-investasi-di-wilayah-tengah-dan-utara>
- Pemodal asing sektor pariwisata “betah” investasi di Bali. (n.d.). Retrieved August 1, 2024, from <https://ekonomi.kompas.com/read/2018/09/27/062419126/pemodal-asing-sektor-pariwisata-betah-investasi-di-bali>
- Peraturan Kepala Badan Pusat Statistik Nomor 2 Tahun 2020 tentang Klasifikasi Baku Lapangan Usaha Indonesia.
- Peraturan Pemerintah Republik Indonesia Nomor 18 Tahun 2021 tentang Hak Pengelolaan, Hak Atas Tanah, Satuan Rumah Susun, dan Pendaftaran Tanah.
- Putusan Mahkamah Agung dengan putusan nomor 3020 K/PDT/2014.
- Undang-Undang No. 25 Tahun 2007 tentang Penanaman Modal.
- Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas.
- Undang-Undang Republik Indonesia Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris.
- Undang-Undang Republik Indonesia Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2023 tentang Cipta Kerja Menjadi Undang-Undang.
- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (UUD 1945)