

Implications of the Job Creation Act in the Implementation of Public Housing Development Permits



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ABSTRACT: The issuance of Law Number 11 of 2020 concerning Job Creation has had an impact on various sectors in the administration of government affairs, including in the housing and settlement area sub-sector, especially the implementation of housing development permits, namely the change in the Building Permit (IMB) to Building Approval. This article uses a qualitative approach by using a review of documents and secondary data from government and local government sources and library research to enrich research on housing and settlement areas that support this research. This study reveals that policy changes in the housing sector severely impact the implementation of housing development, especially on permits and user fees. So it can be concluded that the coordination between governments is not yet optimal regarding the regulation in the housing sector..

KEYWORDS: Job Creation, Public Housing, Licensing

INTRODUCTION

Since the issuance of Law Number 11 of 2020 concerning Job Creation, it has implications for various sectors in the administration of government affairs. The Job Creation Act is drowning up using the omnibus law, which later became a discourse and polemic among various groups with analysts of social politics, law, and others (Neununy, 2021). Various demonstrations from various regions in Indonesia to cancel the implementation of the Job Creation Act and negative issues raised in the Job Creation Act, starting from the drafting process to ratification (Humaira, 2021). The government says that the job creation law is a legal breakthrough. Technique omnibus law, around 76 laws consisting of various articles, can be revised simultaneously with only one job creation law regulating multi-sectors (Amania, 2020). Various kinds of overlapping rules, then the investment climate that is needed to grow significantly in competition with the global world; of course, to regulate this, a rule is needed that can accommodate the many rules that exist in Indonesia (Kurniawan, 2020).

One of the administrations of government affairs affected by Law Number 11 of 2020 concerning Job Creation is government affairs in the housing and settlement areas. In general, the problem in housing management is population growth and the limited availability of land, which causes a higher backlog (Septia et al., 2020). In housing development, various sectors are positively affected, namely the absorption of local workers, the growth of regional banks, and financial institutions as a platform for public housing loans and other essential building materials. The rapidly increasing housing gap is caused by the weakening of housing policy structures under neoliberalism and housing finance (Raynor & Whitzman, 2021). Government intervention is highly challenged in many countries dominated by neoliberal paradigms (Galster & Lee, 2021), (Alam et al., 2022), coupled with the new challenges since the Covid 19 pandemic worldwide, the implications for substantial socioeconomic effects (Galster & Lee, 2020), (Recio & Shafique, 2022). However, problems in the housing development sector include licensing. A convoluted and relatively changing bureaucracy tends to make licensing less than optimal. A series of housing development permits are Izin Mendirikan Bangunan (IMB) and the Sertifikat Laik Fungsi (SLF). Later, after the issuance of Law Number 11 of 2020 concerning Job Creation, licensing was trimmed as much as possible. Izin Mendirikan Bangunan (IMB) changed to Persetujuan Bangunan Gedung (PBG) by reducing several technical and administrative requirements.

This article examines the impact of the issuance of the Job Creation Act on the administration of government affairs in the housing and settlement areas. The critical issues in this paper are about policy changes in the housing development licensing sector and the consequences of regional policies in determining regional taxes and levies in the public housing sector.

METHOD

This article is a descriptive study that aims to determine the value of one or more variables without comparing or analyzing the relationship between one variable and another. The research approach is qualitative by analyzing primary and secondary data (Sugiyono, 2010). With a qualitative approach, this article is expected to dig deeper into the data and obtain factual conditions at

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the institution's locus of research so that the research objectives can be achieved. This article uses a review of documents and data from government sources. Data collection using secondary data from Regional Apparatus related to the implementation of government affairs in the housing and settlement areas, minutes of meetings and discussions of the central government and regional governments, and library research in order to enrich research in the form of books, journals, research results and other information that supports this research..

FINDINGS AND DISCUSSION

Jobs Creation Law in the Implementation of Government Affairs

The issuance of Law Number 11 of 2020 concerning Job Creation has implications for the administration of orders in the housing and settlement areas. Among other things, the changes included in the licensing simplification cluster are the Building Permit (IMB), which was initially regulated in Article 6 of Law Number 28 of 2002 concerning Buildings, which was changed to a Building Approval (PBG), which was later regulated further in a Government Regulation. Number 13 of 2021 concerning the Implementation of Flats and Government Regulation Number 16 of 2021 concerning Implementing Regulations of Law Number 28 of 2002 concerning Buildings.

Furthermore, the Function Feasibility Certificate (SLF) and Proof of Building Ownership (SBKKBG) which are regulated in Article 37 of Law Number 28 of 2002 concerning Buildings, the provisions are amended in the issuance of Law Number 11 of 2020 concerning Job Creation here in after regulated more further in Government Regulation Number 13 of 2021 concerning the Implementation of Flats and Government Regulation Number 16 of 2021 concerning Implementing Regulations of Law Number 28 of 2002 concerning Buildings.

Considering the great need for legal certainty in the service of building approval levies as contained in Article 114 paragraph 1 letter a of Law Number 11 of 2020 concerning Job Creation, the regional government must immediately accelerate the changes to the Regional Regulations concerning the Retribution for Building Permits (IMB) become a Regional Regulation concerning Building Approval Levy (PBG) referring to the procedure for calculating the levy tariff that will be stipulated in the PBG Retribution Regulation in order to guide Government Regulation No. 16 of 2021.

Technically, the implementation of government affairs in the housing and settlement areas affected is the socialization of service delivery. They are licensing in the regions, especially Building Approval (PBG). With the change of the Building Permit (IMB) to the Building Approval (PBG), the local government is giving six months to adjust so that the permit is not disturbed. So local governments are urged to accelerate the preparation of regional regulations regarding building approvals and building approval fees. In order to accelerate this, the Ministry of Home Affairs has issued Circular Letter Number 011/5976/SJ. One of the main points, if the local government has not stipulated a regional regulation on PBG levies until six months after PP 16/2021 takes effect, the PBG levies must be deposited into the state treasury. This partly gets resistance from the regions, considering that user fees are a source of Regional Original Income (PAD).

Table 1. Building Approval Issuance Data (PBG)

| Informations | Number of Regions |
|---|-------------------|
| Regencies / Cities that already have a Regional Regulation on PBG Levy and have issued PBG | 7 |
| Regencies / Cities that do not yet have a Regional Regulation on PBG Levy but have issued PBG | 160 |
| Total Districts/Cities | 167 |

Source: Ministry of Public Works and Public Housing of the Republic of Indonesia, 2022.

It could be that the policy of accessible building approval (PBG) permits, in general, is considered counter-productive, assuming that many parties who can afford to pay become unpaid, thus creating new problems (Syafrizal & Marto, 2021). Building permits are one of the many series of permits required in an activity or community activity, including doing business. However, other permits strongly influence their acquisition and must meet formal requirements in several laws and regulations (Priyanta, 2019).

Not only in local governments, but many developers also complained about the constraints of the migration process of building approval applications (PBG) replacing Building Permits (IMB) in the web-based service Building Information System (SIMBG). SIMBG carried out through the Online Single Submission (OSS) application, is also one of the mandatory requirements in filling out the Developer Pool Information System (SiKumbang) application.

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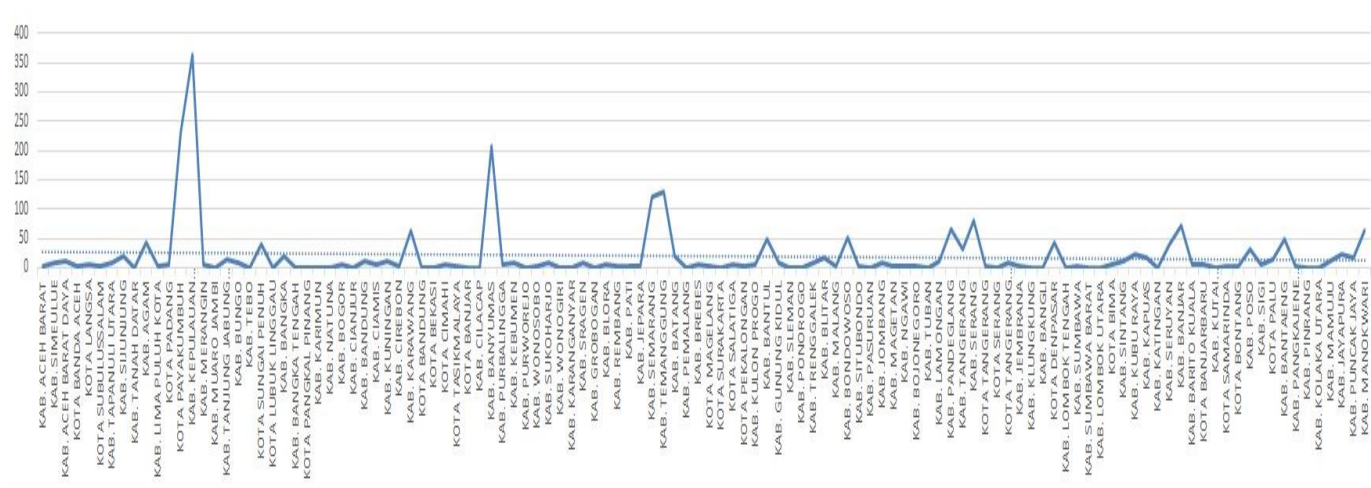


Figure 1. The number of regions that have drafted a regional regulation on the Building Approval

Table 2. SIMBG Utilization Status

| Recapitulation of the Building Approval Process (PBG) | | | | |
|--|-------------------|------------------|-----------|----------|
| Total Submissions | Technical Service | Licensing Office | Published | Rejected |
| 33.365 | 25.859 | 1.567 | 5.799 | 140 |
| Recapitulation of Certificate of Proper Function (SLF) Process | | | | |
| Total Submissions | Technical Service | Licensing Office | Published | Rejected |
| 7.806 | 6.195 | 542 | 1.042 | 27 |

Source: Ministry of Public Works and Public Housing of the Republic of Indonesia, 2022.

However, Article 347 paragraph 1 stipulates that for buildings that have obtained permits issued by the district/city government before the enactment of Government Regulation Number 16 of 2021, the permit is declared still valid. Furthermore, in paragraph 2, it is stated that for buildings that had obtained a building permit from the regency/city government before Government Regulation Number 16 of 2021 came into force, the size will remain valid until the expiration of the permit.

Unification of Tax and Levy Regulations after the Issuance of Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments

At the time of the Job Creation Law, one of the consequences that local governments must face was the existence of regional legal products contrary to the Job Creation Law. Such as regional legal products that regulate licensing and investment issues (Sudarmanto et al., 2021). The Ministry of Public Works and Public Housing and the Ministry of State continue to socialize SIMBG and encourage regions to accelerate the formation of regional regulations on building approval levies. Socialization is underway, then Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments has been issued.

Law Number 1 of 2022 concerning Regional Central Financial Relations article 87 paragraph (1) states that the types and objects of retribution consist of Retribusi General Services, Business Services Retibustion, and Certain Licensing Levy. One of the types of permit granting services that are the object of certain permit levies includes Building Approvals. The building approval levy is based on the issuance of building approvals by the Region.

In-Law Number 1 of 2022 concerning Regional Central Financial Relations also emphasizes the Content of the Regional Regulation on Taxes and Levies in Article 94, namely: Types of Taxes and Levies, Tax Subjects and Taxpayers, Levy Subjects and Levy Payers, objects of Tax and Retribution, the basis for imposing Taxes, the level of use of Levy services, when tax payable, the area of tax collection, as well as tax and levy rates, for all types of Taxes and Levies, are stipulated in 1 (one) local government regulation and become the basis for collecting Taxes and Levies in the Regions. Then in the context of adjustments, Article 187 point (b) reads: The Regional Regulation on Taxes and Levies prepared based on Law Number 28 of 2009 concerning Regional Taxes, and Regional Levies remains in force no later than 2 (two) years from the date of promulgation of this Law.

The issuance of Law Number 1 of 2022 concerning Regional Central Financial Relations has consequences for the unification of local regulations on taxes and levies. One of them is the implementation of the Building Approval levy. Since the change of IMB to PBG, there has also been a change in the levy following the mandate of Law Number 11 of 2020 concerning Job Creation and Government Regulation Number 16 of 2021 concerning Implementing Regulations of Law Number 28 of 2002 concerning Building Buildings, so the local government is encouraged to change the rules for IMB to PBG levy services by drafting regional regulations on PBG levies. However, after the local government issued a regulation to adjust to the new regulation, Law Number 1 of 2022 concerning Regional Central Financial Relations was issued, emphasizing the unification of regulations on taxes and levies. So that

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what is done by local governments in preparing regional regulations on PBG levies is useless because Law Number 1 of 2022 concerning Regional Central Financial Relations mandates that all regulations on taxes and levies be unified, no longer standing alone or separately. From this case, it can be assumed that coordination between governments is not running optimally because it has not been completed to adjust the new rules and then the issuance of other new rules again so that it becomes one of the factors for increasing the implementation of housing development permits (Wijaya & Handrisal, 2021) and results in overlapping authorities.

Efforts to Accelerate the Implementation of Building Approvals

With the changes in laws and regulations and anticipating the potential for overlapping policies, an acceleration strategy was cared to optimize the implementation of Building Approvals. The Regency/City Government must immediately implement PBG services following Government Regulation Number 16 of 2021 concerning Implementing Regulations of Law Number 28 of 2002 concerning Buildings by creating an account in the Building Management Information System (SIMBG). The preparation of the PBG Levy Local Government Regulation must be determined no later than January 5, 2024, under Article 187 letter b of Law Number 1 of 2022 concerning Financial Relations between the Central Government and Local Governments. Local Governments that have established a Local Government Regulation for Building Approval Levy (PBG) as stipulated in Article 347 of Government Regulation 16 of 2021 can levy building approval levies. Then the Regional Government, which has established a Regional Regulation for the Building Approval (PBG) as stipulated in Article 347 of Government Regulation Number 16 of 2021, can levy the Building Approval Levy. As well as the delegation of authority for the implementation of permits in the regions from the Regional Head to the Head of the PMPTSP Office

CONCLUSION

The dynamics of the issuance of the Job Creation Law finally led to the Constitutional Court Decision Number 91/PUU-XVIII/2020, stating that Law Number 11 of 2020 concerning Job Creation was formally flawed and unconstitutional. In other words, the law's framers are given two years for repairs. So this ruling on conditionally or conditionally unconstitutional is considered a way out. So it can be concluded that this ruling distinguishes between process and outcome so that what is declared unconstitutional is only the process. However, the law remains constitutional and in force. The impact of this decision has consequences for the simplification program for housing development permits with the change of Building Permits (IMB) to Building Approvals (PBG) along with the Building Approval (PBG) levy.

With these changes, the central government urges local governments to draft regional regulations on building approval levies (PBG) within six months. In conjunction with the guidance line arrangements prepared by the Ministry of Finance and supported by the Minister of Home Affairs Circular. However, when the regions carried out the preparation, a new regulation was issued on the unification of regulations in the tax and levy sector with a time limit of two years. So the solution carried out by the government is, for regions that have compiled it to continue, then for regions that have not yet compiled, they can follow the existing rules, but free of levy fees until waiting for the unification of regional regulations on taxes and levies under Law Number 1 of 2022 concerning Regional Central Financial Relations.

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