

Tinjauan yuridis ekonomi kebutuhan tes insolvensi (insolvency test) pada permohonan kepailitan di Indonesia dan kemungkinan penerapannya = Juridical economic study on the needs of insolvency test in bankruptcy petition in indonesia and application possibility

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Abstrak

[ABSTRAK

Hukum kepailitan di Indonesia masih memiliki kekurangan, yaitu tidak terdapatnya syarat tes insolvensi di dalam permohonan pailit. Hal ini menyebabkan seringnya terjadi kepailitan terhadap perusahaan-perusahaan yang masih solven, hanya karena tidak mau membayar utangnya. Syarat tes insolvensi diperlukan untuk membedakan mana debitur yang masih mampu melunasi utangnya dengan debitur yang tidak mampu untuk melunasi utangnya, agar kepailitan terhadap debitur yang masih solven tidak terulang kembali. Penelitian ini membahas mengenai bagaimanakah pentingnya syarat tes insolvensi dalam permohonan pailit suatu perusahaan dan bagaimanakah kemungkinan penerapan tes insolvensi dalam permohonan pailit suatu perusahaan di Indonesia. Metode penelitan menggunakan pendekatan yuridis normatif dan dianalisa secara kualitatif serta dilaporkan dalam bentuk preskriptif analitis. Dengan membandingkan kepailitan di Amerika Serikat, diketahui terdapat metode-metode untuk menilai kemampuan debitur dalam melunasi utangnya, salah satunya dengan menggunakan metode perhitungan Altman Z-Score. Metode Altman Z-Score telah lama digunakan di Amerika Serikat dan terbukti dapat digunakan untuk menghitung kemampuan pelunasan utang dalam perkara kepailitan di Indonesia pula. Oleh karena itu, metode Altman Z-Score dapat digunakan sebagai tolak ukur untuk membentuk peraturan setingkat Peraturan Menteri yang mengatur mengenai tes insolvensi yang akan digunakan dalam kasus-kasus kepailitan di Indonesia. Implementasi secara langsung adalah dengan memanfaatkan jasa akuntan publik selaku profesi penunjang untuk melakukan tes insolvensi terhadap debitur dalam kasus kepailitan.

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ABSTRACT

The law of bankruptcy in Indonesia still has some weakness points, such as the unavailability terms of insolvency test in the bankruptcy petition. This condition often induces bankruptcy towards the companies which are still solvent, just because not willing to pay the debt. The term of insolvency test is needed to differentiate which debtors are still affordable to pay off their debt with the unaffordable ones, so that bankruptcy towards the solvent debtors not to be reoccurred. This thesis covers about how important the term of insolvency test is in a company's bankruptcy petition in and how the possibility to apply the insolvency test in a company's bankruptcy petition is in Indonesia. The method of this research use juridical and normative approach, and to be analyzed qualitatively and to be reported in the form if prescriptive analytically. By comparing the bankruptcy in the United States of America, there are methods to evaluate the affordability of the debtors to pay off their debt, one of which using the Altman Z-Score method. The method of Altman Z-Score has been commonly used in the Unite States of America and also proved can be used for measuring the affordability of debt payment in the bankruptcy cases in Indonesia. Therefore the method of Altman Z-Score is able to be used as a standard measurement to construct the rules

as the same level of the Minister Regulation (Peraturan Menteri) which manages about the insolvency test which will be used in bankruptcy cases in Indonesia. The direct implementation is to use the service of Public Accountant as a supportive profession to perform the insolvency test toward the debtors in the bankruptcy cases., The law of bankruptcy in Indonesia still has some weakness points, such as the unavailability terms of insolvency test in the bankruptcy petition. This condition often induces bankruptcy towards the companies which are still solvent, just because not willing to pay the debt. The term of insolvency test is needed to differentiate which debtors are still affordable to pay off their debt with the unaffordable ones, so that bankruptcy towards the solvent debtors not to be reoccurred. This thesis covers about how important the term of insolvency test is in a company's bankruptcy petition in and how the possibility to apply the insolvency test in a company's bankruptcy petition is in Indonesia. The method of this research use juridical and normative approach, and to be analyzed qualitatively and to be reported in the form if prescriptive analytically. By comparing the bankruptcy in the United States of America, there are methods to evaluate the affordability of the debtors to pay off their debt, one of which using the Altman Z-Score method. The method of Altman Z-Score has been commonly used in the United States of America and also proved can be used for measuring the affordability of debt payment in the bankruptcy cases in Indonesia. Therefore the method of Altman Z-Score is able to be used as a standard measurement to construct the rules as the same level of the Minister Regulation (Peraturan Menteri) which manages about the insolvency test which will be used in bankruptcy cases in Indonesia. The direct implementation is to use the service of Public Accountant as a supportive profession to perform the insolvency test toward the debtors in the bankruptcy cases.]