

## ABSTRAK

Asas kelangsungan usaha (*going concern*) merupakan suatu asas dalam UU KPKPU yang memberikan kemungkinan untuk tetap melanjutkan usaha debitor pailit yang prospektif. Melanjutkan usaha debitor pailit merupakan suatu proses yang penting dalam rangka meningkatkan harta pailit bagi perusahaan pailit yang mengalami kesulitan keuangan jangka pendek namun sebenarnya masih memiliki prospek yang baik. Jika harta pailit meningkat, utang-utang debitor diharapkan dapat terbayar lunas kepada para kreditornya. UU KPKPU memberikan kewenangan kepada kurator untuk melaksanakan proses *going concern* ini. Dalam praktiknya, proses *going concern* tidak selalu berhasil, bahkan dimungkinkan terjadi kerugian.

Permasalahan yang dibahas dalam penelitian ini adalah pengaturan *going concern* dalam UU KPKPU serta tanggung jawab kurator dalam kegagalan proses *going concern*, dengan menggunakan metode pendekatan yuridis normatif.

Hasil penelitian menunjukkan bahwa *going concern* diatur dalam Pasal 104 dan Pasal 179 hingga 184 UU KPKPU yang meliputi makna, pihak yang berwenang melakukan *going concern*, jenis, prosedur pengusulan, hingga pengakhiran proses *going concern*. Perihal tanggung jawab kurator, berdasarkan Pasal 72 UU KPKPU, kurator wajib bertanggung jawab secara pribadi apabila ia melakukan kesalahan maupun kelalaian yang merugikan harta pailit sehingga proses *going concern* menjadi gagal karena merugi. Terhadap kerugian tersebut, debitor atau kreditor dapat mengajukan gugatan ganti rugi atas perbuatan melawan hukum yang diatur dalam Pasal 1365 KUH Perdata.

**Kata kunci: Kepailitan, *Going Concern*, Kurator, Tanggung Jawab, Perbuatan Melawan Hukum**

## **ABSTRACT**

*Going concern is a principle governed in The Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debts Payment Obligation (“UU KPKPU”) which gives possibilities to continue the prospective bankrupt debtor business. Continuing the business of bankrupt debtor is an important process in order to increase bankruptcy assets for bankrupt companies that are experiencing short-term financial difficulties but actually still have good prospects. If the bankruptcy assets increased, debtors' debts are expected to be paid off to their creditors. UU KPKPU gives authority to the Receiver to carry out this going concern process. In practice, the going concern process does not always lead to success, but losses may occur.*

*Issues that will be discussed in this thesis are going concern regulations in UU KPKPU and the responsibility of Receiver towards the failure of going concern process, by using a normative juridical approach method.*

*The results of the research shows that going concern is regulated in Article 104 and Article 179 to 184 of UU KPKPU which include the meaning, the authorized party to conduct going concern, types, procedures for proposing, and the end of going concern process. Regarding the Receiver's responsibility, based on Article 72 of UU KPKPU, the Receiver is obliged to be personally liable if he conducts a mistake or negligence which is detrimental to the bankrupt assets so that the going concern process fails due to the loss. For these losses, the debtor or creditor can file a lawsuit for compensation for unlawful acts stipulated in Article 1365 of the Civil Code.*

**Keywords: Bankruptcy, Going Concern, Receiver, Liability, Unlawful Act**