

# Implementation Of Duties And Authorities Of The Regional Responsibility Council In Respecting Concerns Of Code Of Conduct Against Notary Violating The Code Of Conduct In Implementing Official Duties

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**Abstract:** The duties and authorities as referred to in the notary are the duties and authorities that have been determined from the mandate of the Law on Notary Position Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the Position of Notary Public. Therefore, with the existence of the provisions of the Law on the Position of Notary in the Unitary State of the Republic of Indonesia, legally as an official deed maker The scope of the Notary Code of Ethics is based on the Amendment to the Notary Code of Ethics for the Extraordinary Congress of the Indonesian Notary Association in Banten, 29-30 May 2015, which applies to all members of the association or other people (as long as those who carry out the Position of Notary), both in the implementation of their positions and in life daily.

**Key Words:** Notary, Code of Ethics, West Sumatra Regional Honorary Council.

## 1. INTRODUCTION:

Notary is a public official whose legality is granted directly by the Ministry of Law and Human Rights. Public officials here mean that notaries indirectly participate in carrying out the duties of the Government and also maintain the obligations of the Government through its role in making authentic acts for the people. Duties and authorities referred to the notary is the duties and authorities that have been determined by Law No. 2 of 2014 on Amendments to Law No. 30 of 2004 on the Office of a Notary. Thus, with the existence of this law, the Notary Department in the United States of the Republic of Indonesia is recognized as an official lawmaker.

The meaning of an authentic act pursuant to Article 1868 of the Civil Code is an act made in the form prescribed by Law, made by or in the presence of the general officers in authority for the place where the act is made. There are three elements that must be met in the article 1868 KUHPerdata, namely made in the form required by Law, made by or in the presence of an authorized public office, and in the place where the act is made. If these three elements are not met, then the act does not belong as an authentic act. The provisions of Article 1868 of the Civil Code clearly and explicitly state the conditions for the formation of an authentic act which is later reaffirmed in Article 1 number 7 of Law No. 2 of 2014 on Amendments to Law No. 30 of 2004 on the Notary Deed that the Notary Deed is an authentic act made by or in the presence of a Notary in accordance with the form and procedures prescribed in the Law of the Notary Department. [1]

In day-to-day activities, the Notary is supervised by a supervisory agency which in this case is the District Court, conducted by the Judge where the Notary's working area is located. But considering the challenges in the field of supervision are quite heavy and also supported by the number of Notaries who are already so many, then it is time to think about the empowerment of Notary supervision now.

The House of Honor is a tool of the association that has the authority to investigate any violations of the Code of Ethics that are internal or that have nothing to do with the public interest directly and impose sanctions on violations in accordance with its authority. Notaries who are sanctioned for violations of the Code of Ethics may make defensive efforts and may appeal in stages to the decision of the Regional Honorary Council, to the Regional Honorary Council and the Central Honorary Council as a final level examination. Therefore, it is very important for Notaries to be able to better understand the extent to which the act can be said to be a violation of the Code of Ethics of Notary Officers, how the effectiveness of the organization / association of Notaries of Indonesia (INI) in providing guidance to Notaries detrimental to the Notary and the community he served.

Supervision and enforcement of the Code of Ethics against Notaries is essential in the case of a Notary who neglects the noble and dignified value of the Notary or the duties of his office or commits violations of the general rules or commits other errors in carrying out his duties as Notary.

## **2. THEORITICAL FRAMEWORK:**

### **a. Law Enforcement Theory**

According to Wayne La-Favre, law enforcement is a process, which in essence is the application of discretion concerning making decisions that are not strictly regulated by the rule of law but have personal research.

### **b. Legal Liability Theory**

The theory of legal liability is according to Hans Kelsen: "A concept related to the concept of legal obligation is the concept of legal responsibility. That a person is legally responsible for a certain act or that he is legally responsible means that he is responsible for a sanction in the case of a contradicting legal action. Usually in the case of sanctions aimed at the direct perpetrator, someone is responsible for their own actions." [2]

### **c. Authority Theory**

In the concept of public law, authority is a core concept in constitutional law and administrative law. In constitutional law, authority (bevogdheid) is described as legal power (rechtsmacht). So in the concept of public law, authority is related to power. [3]

## **3. LITERATURE REVIEW:**

In carrying out the duties and obligations as a Notary, one must be able to be accountable for every action or action that is carried out, this is not only done to maintain his good name but also to maintain the honor and good name of the notary institutions as a forum for Notaries throughout Indonesia.

Supervision of Notaries is aimed at ensuring that Notaries fulfill the requirements as determined by law for the sake of safeguarding the interests of the general public. Notaries are appointed not for their own interests, but for the interests of the people they serve, for that by law great trust is given and in general it can be said that every giving of trust to a person places responsibility on his shoulders, both legally and morally. The formation of UUJN is expected to supervise Notaries as a coaching institution so that Notaries in carrying out their positions can further improve the quality of service to the community.

To maintain the honor and dignity of the Notary Office, the association has a Notary Code of Ethics established by the congress and is a moral principle that must be obeyed by every member of the association. The Honorary Council is a tool kit for the association consisting of several members who are elected from ordinary members and a notary public, who are highly dedicated and loyal to the association, have good personality, are wise and wise, so that they can become role models for members and appointed by the congress for the term of office. equal to the term of office of the management.

## **5. METHOD:**

The method used in this research is normative, that is, examining legal principles, legal systematics, legal history of legal synchronization level, and comparative law.

## **6. DISCUSSION:**

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The rapid development of globalization in Indonesia has resulted in the economic and social pace of being so fast, this has resulted in the public needing a Notary in such economic and social life. As a functionary in society, a

notary is tasked with providing reliable legal advice. In addition, the Notary is also an official in charge of making a document strong, so that it can be used as a reference for strong evidence in the trial process if it is needed later.

Each professional group has norms that guide the behavior of its members in carrying out professional duties. These norms are formulated in a written form known as the professional Code of Ethics. The legal profession Code of Ethics is a form of legal profession ethics realization that must be obeyed by every legal professional concerned.

Based on the decision of the Congress of the Indonesian Notary Public Association and / or determined by and regulated in the laws and regulations concerning this matter and which apply to and must be obeyed by each and all members of the Indonesian Notary Public Association and all people who carry out their duties as a notary, including in it is a temporary official notary, substitute notary and special substitute notary.

Thus, it is necessary to have a continuous monitoring mechanism for the Notary in carrying out his duties and positions, both preventive and curative in nature, on the implementation of the Notary's duties. The mechanism is carried out on the basis of the Law on Notary Position and the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 40 of 2015 concerning Organizational Structure, Procedures for Appointing Members, Dismissing Members, and Working Procedures of the Supervisory Council. Regarding amendments to the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number: M.02.PR.08.10 of 2004 concerning Organizational Structure, Procedures for Appointing Members, Dismissing Members, and Working Procedures of the Supervisory Council.

Violation in the position of notary, can be qualified for; Violations of the Professional Code of Ethics and violations of the Law and accountability are usually carried out in a civil manner in the form of compensation, criminally in the form of imprisonment and fines, and administratively in the form of dismissal from office. Every act against the law that harms other people, must be held accountable for the person who causes losses. In the theory of error, criminal law recognizes two parts of wrongdoing, namely deliberate and negligent (Dolus and Culpa), besides that, actions that harm others inappropriately and violating the law are actions that are classified as illegal acts.

The Honorary Council is the organ of the association which has the authority to examine all violations of the Code of Ethics that are internal or not directly related to the interests of the community and impose sanctions on violations in accordance with its authority.

The existence of the Notary Code of Ethics aims to make a Notary profession run professionally with motivation and orientation towards intellectual skills and to argue rationally and critically and uphold moral values.

## **7. ANALYSIS:**

### **A. What is the Attitude of the Regional Honorary Council of the Indonesian Notary Association in Supervision of the Notary Code of Ethics**

#### **• West Sumatra Regional Honorary Council**

The Regional Honorary Council is an autonomous body in making decisions. The Regional Honorary Council has the duty and obligation to provide guidance and supervise the implementation and compliance of the Code of Ethics by association members in their respective regions.

In carrying out its duties and obligations, the Regional Honorary Council may hold meetings with the Regional Administrators, the Central Administrators, the Central Honorary Councils, the Regional Administrators or the Regional Honorary Councils. The Regional Honorary Council can look for facts of violations on its own initiative or after receiving a written complaint from an association member or other person with convincing evidence that a violation of the Code of Ethics has occurred, after finding facts of the Code of Conduct violation or after receiving a complaint, is obliged to summon the member concerned to ascertain whether there has indeed been a violation and to provide an opportunity for him to provide an explanation and defense.

#### **• Forms of Supervision of the Code of Ethics of the Regional Honorary Council of the Indonesian Notary Association in West Sumatra Province**

Basically, the main task of the Honorary Council is to supervise the implementation of the notary Code of Ethics that has been determined by the organization including the obligations, prohibitions and exceptions that must be carried out by members of the organization.

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## **B. How the Efforts of the Regional Honorary Council of the Indonesian Notary Association in Upholding the Notary Code of Ethics**

Considering that the role and authority of a notary is very important for the community, the behavior and actions of notaries in carrying out their professional positions are vulnerable to abuse that can harm the community, so that the notary's guidance and supervision institutions need to be made effective. The provisions governing the Supervisory Council in Law Number 30 of 2004 to Law Number 2 of 2014 concerning the Position of Notary Public are an effort to anticipate weaknesses and deficiencies in the supervisory system of Notaries, so that it is hoped that in carrying out their professional positions, notaries can be more improve the quality of service to the community.

## **8. CONCLUSION:**

From the discussion as explained earlier, several conclusions can be drawn, including:

- The Chairman of the Regional Honorary Council of West Sumatra Province has carried out supervision in the form of seeing firsthand the actions and behavior of the Notary as regulated in the results of the INI Congress in Banten on 29-30 May 2015 regarding changes to the Notary Code of Ethics Article 4 regarding Prohibition.
- Chairman of the Regional Honorary Council of West Sumatra Province, because there has been no violation of the Code of Ethics committed by a Notary in West Sumatra Province, it is proven by the absence of any violations found by the Management of the West Sumatra Regional Honorary Council, the form of enforcement of the Notary Code of Ethics in West Sumatra Province has not been implemented, so to carry out an enforcement of the rules must first find the violation of the Code of Ethics.

## **9. SUGGESTIONS:**

The suggestions given by researchers are as follows:

- It is hoped that changes, updates to the Notary Code of Ethics will be updated regularly. Conducted together with the Regional Honorary Council, the Territory and the Assembly center, by taking into account cases that have occurred and resolved by the Honorary Council.
- It is expected that the implementation of duties and positions of notaries must always be based on high integrity and honesty, then it is hoped that there will be renewal of tougher sanctions by the Regional Honorary Council which has a deterrent effect.

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