

European Research Studies Journal
Volume XXI, Issue 2, 2018

pp. 165-177

Measuring the Openness of Land Investment Policy Related to Housing or Residential Ownership by Foreigners in Indonesia

Amad Sudiro¹

Abstract:

The existence of Government Regulation No. 103 of 2015 concerning Housing or Residential Ownership by Foreigners Occupied in Indonesia which contains a climate of openness for foreigners raises the problem of government openness policy in the field of land investment.

One of the problems contained in the Government Regulation No. 103 of 2015 as a breakdown of Law No. 5 of 1960 concerns the Basic Regulations of Agrarian Principles and Law No. 5 of 2011 concerning immigration is the duration of the right of use. This duration is 80 years containing a climate of openness to foreigners. This period is longer than the enactment in the Government Regulation No. 41 of 1996 which regulates the same matter.

This research is a normative juridical research using statute approach, conceptual approach and comparative approach. Comparisons are made between the existing primary legal materials, mainly between Government Regulation No. 103 of 2015 and the previous Government Regulation concerning the same matter, that is Government Regulation No. 41 of 1996.

Keywords: *Housing ownership, residential by foreigner in Indonesia, Government Regulation No. 103 of 2015, land investment.*

¹Tarumanegara University Jakarta, Jakarta Barat, email: ahmads@fh.untar.ac.id

1. Introduction

Having a comfortable dwelling is everyone's dream. Not only domestic investors, but foreign investors are also attracted to invest in residential either in the form of house or apartment. The need to own a residential is sometimes no longer to fulfill one of the basic human needs of a "wood", as the viewpoint of most Indonesian people that "food, clothing and wood" are the basic necessity for human to live. This is called the physical need by Abraham Maslow, but more than that, to own a residential is becoming a form of investment to reach a more feasible living.

Speaking about residential, whether in the form of a house or apartment, it must not be separated from the discussion of land rights. Land rights derive from the government right of controlling the land which may be granted to individuals, either citizens of the Republic of Indonesia or foreigners, a group of people, and legal entities both private and public (Santoso, 2008). This stems from the provisions of land rights regulated in Article 4 paragraph (1) of Law No. 5 of 1960 concerning the Basic Regulation of Agrarian Principles (hereinafter referred to as Law No. 5 of 1960), namely: *"On the basis of the right of control of the state of land as referred to in Article 2, it is determined that there are various kinds of rights to the surface of the earth, called land, which can be acquired to and possessed by people, either alone or together with the others as well as legal entities."*

The regulation of land rights is important because it authorizes the holder, whether it is the authority to use the land, including the layers of earth, water and space above it, as well as the special powers to use the land according to the type of land rights. Ownership of houses or residential by foreigners occupied in Indonesia is closely linked to the land rights, in which it is permitted by the government to build residence for foreigners is the Right of use. Right of use is a kind of land right granted to foreigners occupied in Indonesia, as well as foreign legal entities that have their representatives in Indonesia under the provisions of Article 42 of Law No. 5 of 1960. This provision provides the legal basis for foreigners or foreign legal entities to use the land under particular authority on the basis of Right of use.

The emergence of Government Regulation No. 103 of 2015 concerning Housing or Residential Ownership by Foreigners Occupied in Indonesia (hereinafter referred to as Government Regulation No. 103 of 2015) contains a climate of openness for foreigners to have occupancy with Right of use with a longer period of time compared to the Government Regulation No. 41 of 1996 which regulates the same matter that is about Housing or Residential Ownership by Foreigners Occupied in Indonesia (hereinafter referred to as Government Regulation No. 41 of 1996). The 80-years term of entitlement granting is a symptom of openness policy in the field of land investment. This climate of openness is particularly directed to foreign investors.

Some national printed media released news about the climate of openness policy. In the news, echoed vigorously about the official government permits for foreigners to have residential in Indonesia. Actually, the regulation that regulates about the same matter has been issued in the form of Government Regulation No. 41 of 1996. However, in this government regulation, there is no regulation about the ownership of residential by foreigners in Indonesia. The ownership is clearly mentioned in the latest one, Government Regulation No. 103 of 2015. On the other hand, there is a tendency of openness policy in the Government Regulation No. 103 of 2015 which is worried that it will be a risk for Indonesian citizens in the future. The risk relates to the formulation of the definition of a foreigner, the length of time, the type of residential property that a foreigner may possess, and the inheritance formulated in a more open climate than the definition in the previous Government Regulation, the official ownership.

Moreover, there is no clear regulation regarding the type of residence permit that can be allowed to own a residence in Indonesia. This is important in regard to the concerns of the existence of unknown foreigners living in the Indonesian territory, particularly in big cities. In addition, the existence of Government Regulation No. 103 of 2015 as part of the field of agrarian law and immigration, not part of foreign investment which has an uneasy requirement of having to establish a limited liability company for foreign investors, makes this government regulation a new access for foreign investors who are willing to invest in Indonesia in the form of residency.

Based on this background, this research needs to be conducted, not in the aim of banning foreign investment into the residential business in Indonesia, but solely to explain the problem of the issuance of Government Regulation No. 103 of 2015, so that the risks that can occur in connection with a more open climate of foreign investment in residential business in Indonesia, can be resolved better. The formulation of the problem regarding the problematics of the openness policy in the field of land investment related to housing or residential ownership by foreigners in Indonesia is the main aim of this study.

2. Research Methods

This research is a normative juridical research using statute approach, conceptual approach and comparative approach (Marzuki, 2006). Comparisons are made between the existing primary legal materials, mainly between Government Regulation No. 103 of 2015 and the previous Government Regulation concerning the same matter, that is Government Regulation No. 41 of 1996 that has been removed and Government Regulation No. 40 of 1996 concerning Right to Cultivation, Right of Building and Right of use to examine which elements of openness policy contained in Government Regulation No. 103 of 2015.

2.1 Housing or Residential Ownership by Foreigners in Indonesia

Housing or residential ownership by foreigners in Indonesia can be described by several terminologies regulated in the abovementioned Government Regulation No. 103 of 2015. Foreigners in Indonesia (hereinafter referred to as foreigners) are non-Indonesian citizens whose existence provide benefits, conducts business, works or investments in Indonesia. The foreigners may own a house or residence with Right of use. The house of residence or occupancy may be inherited as long as the foreigner is the holder of a residential permit in Indonesia in accordance with the laws and regulations. The abovementioned house or residence consists of (a) single house on the land with right of use; or right of use on the land with right of ownership that is governed under the agreement on the assignment of right of use on the land with right of ownership under the deed of Land Acquisition Authorities Office; and (b) apartment which is built on the land with right of use.

Housing or residential ownership by foreigners occupied in Indonesia is granted to foreigners for purchasing a new single house and right of ownership of apartment on the right to use for purchasing a new unit. The single house granted on the right of use is granted for a term of 30 (thirty) years and can be extended for a term of 20 (twenty) years. After the term of 50 (fifty) years expires, foreigners may renew the abovementioned right for a term of 30 (thirty) years. The same term applies also to a single house on the land with right of use on the land with right of ownership that is governed under the agreement on the assignment of right of use on the land with right of ownership under the deed of Land Acquisition Authorities Office. The extension and renewal can be carried out as long as the foreigner has still a residential permit in Indonesia.

The definition of housing or residential ownership by foreigners in Indonesia in Government Regulation No. 103 of 2015 is completely different from the definition in the foreign investment enacted in Law No. 5 of 2007 (Hasni, 2008; Santoso, 2008; Salim and Sutrisno, 2008; Santoso, 2012; Sihombing, 2009). Foreigners do not need to follow the foreign investment procedures enacted in Law No. 5 of 2007. Government Regulation No. 103 of 2015 is stipulated under Article 5 paragraph (2) of the Constitution of the Republic of Indonesia, the abovementioned Law No. 5 of 1960 concerning the Basic Principles of Agrarian Law and Law No. 5 of 2011 concerning immigration. This makes Government Regulation No. 103 Year 2015 a new path for foreign investors interested in investing in Indonesia in the form of residency.

2.2 Right of Use of foreigners in Indonesian Legislation

In general, there are several regulations concerning right of use in Indonesian legislation of Law No. 5 of 1960 concerning Basic Regulations of Agrarian Principles (hereinafter referred to as Law No. 5 of 1960), Government Regulation No. 40 of 1996 concerning Right to Cultivation, Right of Building and Right of use (hereinafter referred to as Government Regulation No. 40 of 1996), Regulation of the Minister of Agrarian Affairs / Head of National Land Affairs Board No. 3 of

1999 concerning the Delegation of the Authority for the Granting and Revocation of Decree on the Granting of Land Rights (hereinafter referred to as Regulation of the Minister of Agrarian Affairs No. 3 of 1999) and the Regulation of the Minister of Agrarian Affairs / Head of the National Land Affairs Board No. 9 of 1999 concerning Procedures for granting and Cancellation of Land Rights and Right of Management (hereinafter referred to as Regulation of the Minister of Agrarian Affairs No. 9 of 1999). These general regulations concerning Right of use need to be included in this study because of the transitional rules set forth in Article 11 of Government Regulation No. 103 of 2015, stated that *“further provisions concerning the procedure of granting, disposing or transferring the right to ownership of houses or residence by foreigners is regulated by the ministerial / head of governmental agencies regulation in charge of agrarian affairs”*.

Accordingly, the regulations of right of use in common are also applicable to foreigners as long as the particular rules, Government Regulation No. 103 of 2015, does not regulate the matter. The definition of the right of use in general (hereinafter referred to as the right of use is set forth in Article 41 paragraph (1) of the abovementioned Law No. 5 of 1960, namely the right of use and/or to collect the proceeds of land directly controlled by the state or land belonging to another person, authorizing and liable specified in the decision of the grant by the competent authority or in agreement with the owner of land, which is not a lease agreement or the owner of land agreement, all origin is not contrary to the spirit and provisions of the Law No. 5 of 1960. The right of use generally can be acquired in two conditions. First, over a certain period of time or as long as the land is used for certain purposes. Secondly, for free, with payment or service delivery.

Generally, the right of use subjects are Indonesian citizen, foreigners occupied in Indonesia, legal entity established under Indonesian law and domiciled in Indonesia and foreign legal entities who have representation in Indonesia. Particularly on the rights of use by foreigners occupied in Indonesia are set forth in the abovementioned Government Regulation No. 103 of 2015. Right of use is generally applied for the following three cases.

First, the right of use on the land of the state. This kind of right of use is granted with the decision of granting the right by the National Defense Board. This right of use occurs since the decision of the right of use is registered to the Head of the Local Government / Municipal Land Office to be recorded in the Land Book and issued the certificate as proof of one's right (Santoso, 2008). The District / Municipal Land Office has the authority to issue the Decree of right of use, the Head of the Regional Office of the National Defense Board of the Province is authorized to issue the further Decree of right of use. Procedures of issuing the right to Assignment Decision are set forth in Article 50 up to Article 56 of the Regulation of the Minister of Agrarian Affairs No. 9 of 1999.

Second, the right of use on right of land management. This right of use is granted by the decision of granting the right by the National Defense Agency based on the motion of the holder of right of land management. The right is officially issued since the decision to grant the right is registered by the head of the province / city land office to be recorded in the land book and issued the certificate as proof of one's right (Santoso, 2008). The National Land Board which is authorized to issue a right of use deed is regulated in the Regulation of the Minister of Agrarian Affairs No. 3 of 1999, while its issuance procedures are regulated in the Regulation of the Minister of Agrarian Affairs No. 9 of 1999.

Third, the right to use on the land with right of ownership. This occurs with the granting of land by the land owner by the deed made by the Land Acquisition Authorities Office (Pejabat Pembuat Akta Tanah). This deed must be registered by the municipal / city land office to be recorded in the land book. The form of this deed is contained in the Appendix of Regulation of the Minister of Agrarian No. 3 of 1997.

The term of the Right of use is generally not expressly set forth in Article 42 paragraph (1) of the abovementioned Law No. 5 of 1960. This article only specifies that the right of use may be granted for a particular period or as long as the land is used for a particular purpose. In Government Regulation No. 40 of 1996, term of right of use is generally set forth in Articles 45 to 49.

The term of the right of use generally varies according to the origin of the land which is the term of the right of use on the land of the state, the term of the right of use on the right of land management and term right of use on land with right of ownership. For the term of right of use by foreigners occupied in Indonesia is set forth in the abovementioned Government Regulation No. 103 of 2015.

Moreover, the right of use holder is obliged to pay the amount of money that the amount and mode of payment are to be made in the decision of granting the right; use the land in accordance with its provisions and requirements as stipulated in the decision of granting the right; maintain land and buildings on it and safeguard the environment; reimburse the land provided with the right of use to the state, the holder of the land management right or the owner of land after the right of use is removed; deliver the certified right of use that has been removed to the head of the local government / municipal land office; and provide exits or waterways or other facilities for yard or parcel of land confined by the right of use land.

Holder of right of use has rights master and use the land for a certain period of time for personal or business purposes; transfer the right of use to the other; burden the land with mortgage right; master and utilize land for an indefinite period of time as long as land is used for particular purposes.

2.3 Measuring Openness Policy

Since the issuance of Government Regulation No. 103 of 2015, Government Regulation No. 41 of 1996 that regulates the same matter is officially removed. Nevertheless, it is important to compare these government regulations so that it can be clearly seen that the tendency for policy in the field of land investment is more likely to be in whom interests. Government Regulation No. 40 of 1996 concerning right to cultivation, right of building and right of use has not been revoked yet. In fact, in some respects, there is a difference in the stipulation of the Right of use. Therefore, comparison between the definition of housing or residential ownership by foreigners occupied in Indonesia in Government Regulation No. 103 of 2015 concerning housing or residential ownership by foreigners occupied in Indonesia and Government Regulation No. 40 of 1996 should be reviewed more deeply. Several matters need to be examined more closely in comparison with Government Regulation No. 103 of 2015, Government Regulation No. 41 of 1996 (which has been removed) and Government Regulation No. 40 of 1996.

The definition of foreigners domiciled in Indonesia on the abovementioned Government Regulation No. 1 of 1996 is *“foreigners whose presence in Indonesia provides benefits for national development”*, while the definition of Foreigners in Government Regulation No. 103 of 2015 is *“non-Indonesian Citizens whose existence provides benefits, conducts business, works or invests in Indonesia”*. From both definitions, it can be seen that the new Government Regulation is more open than the previous Government Regulation. In the new Government Regulation, as long as the person is willing to invest in Indonesia, he shall have the right to have residence in Indonesia.

In the Government Regulation No. 103 of 2015, there is a stipulation of the term of assignment of Right of use for Foreigners occupied in Indonesia. According to Article 6, the Foreigner may obtain the Right of use for 30 years. If the period has expired, it may be extended for another 20 years. Then, after the 50-years span, the Foreigner is possible to renew the Right of use for 30 years. When summed, the acquired timeframe can attain 80 years. The new Government Regulation is more open from the point of timeframe.

Previously, in the provision of Government Regulation No. 41 of 1996, the right of use for foreigners is shorter. Article 5 provides that a foreigner may only have a right of use for a maximum of 25 years. After the 25 years period expires, the foreigner may renew one’s life rights for the next 25 years. So, the total time period that can be obtained only up to 50 years.

Meanwhile, the abovementioned Government Regulation No. 40 of 1996, the period of time for right of use has not changed. The timeframe that may be obtained by foreigners according to the Government Regulation is not much different from the provisions in Government Regulation No. 41 of 1996 which is now no longer valid.

According to Article 45 Government Regulation No. 40 of 1996, Right of use can only be obtained for a term of 25 years. After that period expires, it can be extended to a maximum of 25 years. If the renewal period has expired, the foreigner can only make the Use Rights renewal for a period of 25 years. Thus, there is conflicting provision regarding the term of Right of use in Government Regulation No. 103 of 2015 and Government Regulation No. 40 of 1996.

According to Article 4 Government Regulation No. 103 of 2015, right of use may be granted to foreigners for a Single House on right of use, or on right of use land under right of ownership. In addition, the right of use can also be acquired to apartment which stands on the right of use. Actually, the provision on the object of right of use in the form of a single house and apartment is also contained in Government Regulation No. 41 of 1996 which has been removed. However, in Government Regulation No. 103 of 2015, there are different types of the right of use of single house and apartment. For single house, it is acquired the right of use, meanwhile, according to Article 5 of Government Regulation No. 103 of 2015, for the apartment is acquired the right of ownership, as a condition, the apartment should be built on the right of use land. In addition, the foreigners can also get the right of ownership of apartment if they purchase a new unit, not an old one. In terms of residential property, the new government regulation is considered more open than the previous government regulation.

In terms of inheritance, Government Regulation No. 103 of 2015 contains new provisions on property inheritance. This stipulation has not been found in the previous rule, namely Government Regulation No. 41 Year 1996 which has been removed. According to Article 2 paragraph (3) Government Regulation No. 103 of 2015, if a foreigner dies then his property may be inherited. However, if the heir is also a foreigner then the heir must have a residential permit in Indonesia.

Meanwhile, if his heirs are not occupied in Indonesia then referring to Article 10 paragraph (1) of Government Regulation No. 103 of 2015, the property of the foreigner shall be transferred to another party who is qualified. The deadline for the transfer is one year. In case of there is no transfer after the grace term acquired, there are two consequences that may occur. First, the house that stands on the land of right of use on state land will be auctioned. Second, if the house stands on the right of ownership, then it belongs to the person holding the rights to the land. In addition to the inheritance, in the Government Regulation No. 103 of 2015 also set the terms of property ownership for those who do inter-marriage. According to Article 3 paragraph (1), Indonesians who engage in marriage with foreigners may have the same rights as other Indonesians. That is, the person who commits inter-marriage is entitled to right of ownership. However, to get it there must be a separation agreement of property made by notarial deed called pre-nuptial agreement. It also shows that the new government regulation is more open.

Government Regulation No. 103 of 2015 tends to be more open to foreigners. This is proofed by a more open definition of foreign investment interests, the longer extension term and renewal of the right of use, the provision that Foreigners may own an apartment with Right of ownership status, and the right to inherit from such right of ownership as long as he still has a residential permit in Indonesia. Moreover, on the comparison between the Government Regulation No. 40 of 1996 and Government Regulation No. 103 of 2015, based on the above comparison, Government Regulation No. 40 of 1996 basically complements Government Regulation No. 103 of 2015. For other rules, other than the term of timeframe, the types of property and inheritance mentioned above, as long as the two government regulations are not contradictory, they may be used as a legal basis for foreigners who are interested in owning property on right of use in Indonesia.

Related to the aspect of immigration, every foreigner residing in the territory of Indonesia, including having a housing or residence, is required to have a residential permit. The obligation to have a residence permit is regulated in Article 48 of Law No. 6 of 2011 concerning immigration. A residence permit granted to a Foreigner in accordance with the visa held in this type of residence permit are diplomatic residence permit; permission to stay on duty; visiting visit permit; limited stay permit; and permanent residence permit.

If it examined from the type of residential permit, there is no certain type of residential permit that is clearly stated as a requirement in Government Regulation No. 103 of 2015 to purchase residential property in Indonesia. Residential permit is only included in the regulation on extension and renewal of right of use. According to Article 8 Government Regulation No. 103 of 2015, such renewals may be implemented as long as the foreigner still has a residential permit in Indonesia. According to the urgency of the clarity of residential ownership in Indonesia, it is recommended that there should be a clarification on what type of residential permit is eligible to have a residential ownership in Indonesia.

2.4 The problem of investment related to housing or residential ownership by foreigners occupied in Indonesia

The abovementioned provision of housing or residential ownership by foreigners in Indonesia related to its climate of openness policy in the field of land investment creates several problems. Policy openness in the field of land investment is seen in the previous sub-section titled Measuring Openness Policy from Comparison between Government Regulation No. 103 of 2015 concerning housing or residential ownership by foreigners occupied in Indonesia, Housing or residential ownership by foreigners occupied in Indonesia (which has been removed) with Government Regulation No. 40 of 1996 concerning right to cultivation, right of building and right of use. There are four matters that indicate Government Regulation No. 103 of 2015 is more open than the previous government regulation in the definition of a foreigner, the length of time, the type of residential property that may be the

property of foreigners and inheritance. Those are important components of the government regulation. A more open definition of foreign investment interests, longer extension periods and renewal of the rights of use for foreigners, the provision that a foreigner may own an apartment with right of ownership, and the right to inherit such foreign ownership insofar as he still has a residential permit in Indonesia, which have been described above, indicates the existence of openness policy in Government Regulation No. 103 of 2015.

Another problem is related to the Compliance of Government Regulation No. 103 of 2015 with the Basic Agrarian Law in Indonesia. As has been explained previously that Government Regulation No. 103 of 2015 in hierarchy, one of which is under Agrarian Law as stipulated in Law No. 5 of 1960 concerning the Basic Regulations of Agrarian Principles. The soul of Government Regulation No. 103 of 2015 is supposed to be coherent with the soul of the Agrarian Law in Indonesia. Based on analysis in Government Regulation No. 103 of 2015 above, the soul in this government has slightly deviated from the purpose of regulation of right of use which is stipulated in the abovementioned Law No. 5 of 1960, which is basically the primary law of the Government Regulation No. 103 of 2015.

In the definition of right of use in general which has been mentioned above everything is not in contradiction to the spirit and provisions of the Basic Regulations of Agrarian Principles. Explicitly, right of use is formulated to be used in harmony with the spirit of the agrarian principles, especially for the sake of national interest. This is already stated in the definition of foreigners who are domiciled in Indonesia in the Government Regulation No. 1 of 1996 *"foreigners whose presence in Indonesia benefits the national development"*.

In the definition of foreigners in Government Regulation 103 of 2015, there are differences that are not realized by many people, but actually they are very significant. The difference is very clear as has been explained above that is the widening of interests. The national interest is no longer listed as within the definition in previous Government Regulation. The definition in the new Government Regulation only states the importance of *"... providing benefits, doing business, working, or investing in Indonesia"*. The intended benefits do not explicitly state that such benefits are directed to Indonesia's national interests.

Concerning the problem of clarity regarding types of residential permits applicable to foreigners who are willing to have housing or residence in Indonesia, it is stipulated in the consideration of Government Regulation No. 103 of 2015 that the Government Regulation is issued *"in the framework of implementing the provisions of Article 42 of Law No. 5 of 1960 on the Basic Regulations of Agrarian Principles and to further provide legal certainty of the ownership of residential houses or occupancy by foreigners domiciled in Indonesia ..."*, but, in article by article, there is no clarity on the types of residential permits allowed to obtain housing in Indonesia.

This lack of clarity will in turn harm the interests, both foreign and national interests, since foreigners and Indonesian citizens are allegedly able to consider any type of residential permit to be used for shelter in Indonesia. From the point of view of foreigners, this can be viewed as legal uncertainty, because in certain countries, it has been determined what kind of residential permit is entitled to apply to have a residence.

From the point of view of the Indonesian people also this can be regarded as detrimental to them, because there is almost no difference between Indonesian citizens and foreigners to get ownership of residential as stated in Government Regulation No. 103 of 2015. In addition, it will be difficult for the government in the control of the future, as a particular matter that has not clearly regulated, will be very multi-interpreted in its real implementation.

Moreover, problem can occur in the context of Indonesian citizen rights on residential in big cities. Policy in Government Regulation No. 103 of 2015 which allows foreigners to have a new apartment unit may result in Indonesian citizens can lose their rights due to competition to own the apartment unit especially in big cities. In addition, the time acquired by the government regulation to a foreigner to be able to have a residence is eighty years plus the right of inheritance regulation in accordance with the government regulation. Thus, it can be estimated, some apartment units in big cities in Indonesia can be completely controlled by foreigners in the long term.

3. Conclusion

Problems contained in the Government Regulation No. 103 of 2015 on housing or residential ownership by foreigners occupied in Indonesia is closely related to the openness policy (general openness policy) in the government regulation. A more open definition of foreign investment interests, longer extension terms and renewal of the rights of use for foreigners, the provision that a foreigner may own an apartment with right of ownership, and may be inherited from such foreign ownership as long as he still has a residential permit in Indonesia shows the existence of openness policy in Government Regulation No. 103 of 2015. Conformity of Government Regulation No. 103 of 2015 with the spirit of the Agrarian Principles in Indonesia is considered to have a widening of interest with the change of definition of foreigners who do not explicitly state that the benefits of new government regulation are directed to the national interests of Indonesia.

Further problems related to the clarity regarding the type of residence permit that can be applied to foreigners who are willing to have shelter in Indonesia is also questioned because in the Government Regulation No. 103 of 2015 is not clarified about the type of residential permit allowed to acquire residence in Indonesia which would undoubtedly an elaborate multi-interpretation in its application in the field. In addition, the right of citizens of Indonesia for residential in large cities is also

considered to be threatened because of the competition to have apartment, especially in big cities and due to the length of grace period and inheritance that can be done on the residence in the Republic of Indonesia.

Based on this conclusion, several suggestions can be made. The Government of the Republic of Indonesia may use the concept of the Australian Government by using the Foreign Investment Review Board (FIRB) to assess the eligibility of a person in the above residential investment proposal. The concept of Malaysia (MM2H) from Malaysia Government is also relevant to be absorbed. There are specific requirements, terms and condition required to the investors such as the eligibility, including a minimum monthly income, minimum liquid assets, and a particular fixed deposit to the foreigners who are willing to have a residence in Malaysia. The government can also be considered regarding the concept of right of use for foreigners, using the concept of right of use to regulate the right of use by a public legal entity using it for an indefinite period during the execution of a task, but there is no right of disposal, meaning it cannot be transferred in any form to a third party nor can it be an object of mortgage.

References:

- Bilodeau, A., Fadol, N. 2011. The roots of contemporary attitudes toward immigration in Australia: contextual and individual-level influences. *Ethnic and racial studies*, 34(6), 1088-1109.
- Calavita, K. 2005. Law, citizenship, and the construction of (some) immigrant "others". *Law & Social Inquiry*, 30(2), 401-420.
- Carruthers, J.I., Duncan, N.T., Waldorf, B.S. 2013. Public and Subsidized Housing as a Platform for Becoming a United States Citizen. *Journal of Regional Science*, 53(1), 60-90.
- Government Regulation No. 103 of 2015 concerning Housing or Residential Ownership by Foreigners Occupied in Indonesia.
- Government Regulation No. 40 of 1996 concerning Right to Cultivation, Right of Building and Right of use.
- Government Regulation No. 41 of 1996 concerning Housing or Residential Ownership by Foreigners Occupied in Indonesia.
- Kassim, A. 2000. Indonesian immigrant settlements in Peninsular Malaysia. *Journal of social issues in Southeast Asia*, 100-122.
- Law No. 5 of 1960 concerning the Basic Regulations of Agrarian Principles.
- Law No. 6 of 2011 concerning Immigration.
- Marzuki, P.M. 2006. *Legal Research*. Jakarta, Kencana Prenada Media.
- Regulation of the Minister of Agrarian Affairs / Head of National Land Affairs Board No. 3 of 1999 concerning the Delegation of the Authority for the Granting and Revocation of Decree on the Granting of Land Rights.
- Regulation of the Minister of Agrarian Affairs / Head of the National Land Affairs Board No. 9 of 1999 concerning Procedures for granting and Cancellation of Land Rights and Right of Management.
- Ruehl, M. 2013. Chinese Charge. *BRW*, 35(27), 14-14.
- Salim, H.S, Budi, S. 2008. *Investment Law in Indonesia*. Jakarta, RajaGrafindo Persada.

- Santoso, U. 2008. *Agrarian Law and Land Rights*. Jakarta, Kencana Prenada Media.
- Santoso, U. 2012. *Agrarian Law: Comprehensive Study*. Jakarta, Kencana Prenada Media.
- Searching for Sanctuary. 2017. *Economist*, Vol. 422 Issue 9031, 65-65.
- Sihombing, J. 2009. *Investment Law in Indonesia*. Bandung, Alumni.
- Stewart, R.M. 2016. Australian Banks Tighten Mortgage-Lending for Foreigners. *Wall Street Journal - Online Edition*.
- Welch, A.R., Zhen, Z. 2008. Higher education and global talent flows: Brain drain, overseas Chinese intellectuals, and diasporic knowledge networks. *Higher Education Policy*, 21(4), 519-537.
- Widjaya, I.G. 2000. *Rai. Investment: Guidance of Procedures Establishing and Running Companies in the Framework of PMA and PMDN*. Jakarta, Pradnya Paramita.