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ANALYSIS OF LEGAL PROTECTION FOR INSURANCE SERVICE CONSUMERS BASED ON INDONESIAN POSITIVE LAW

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ABSTRACT

The development of the insurance industry in Indonesia has made a significant contribution to protecting the public from risk. However, in practice, the legal relationship between insurance companies and consumers often gives rise to disputes, particularly regarding claim rejections, standard clauses, and a lack of information transparency. This study aims to analyze legal protection for insurance consumers based on Indonesian positive law and the obstacles to its implementation. This study uses a normative legal research method with a statutory and conceptual approach. The results show that legal protection for insurance consumers is regulated in the Commercial Code (KUHD), Law Number 40 of 2014 concerning Insurance, and Law Number 8 of 1999 concerning Consumer Protection. Legal protection is provided in the form of preventive and repressive protection. However, the implementation of legal protection still faces various obstacles such as low public financial literacy, weak supervision, and the dominance of insurance companies in standard contracts.

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I. INTRODUCTION

A. Background

Insurance is a non-bank financial institution that plays a vital role in modern society. It provides protection against various risks that can cause losses, including health, accidents, life, and property [1].

In practice, the legal relationship between insurance companies and consumers is realized through an insurance agreement. According to Article 246 of the Commercial Code (KUHD), insurance is an agreement in which the insurer binds himself to the insured by accepting a premium to provide compensation for a loss that may occur due to an uncertain event [2].

The growth of the insurance industry in Indonesia has been accompanied by an increase in the number of insurance consumers. However, disputes between insurance companies and policyholders are not uncommon. Frequent problems include claim rejections, late payment of insurance benefits, unclear policy content, and the use of standard clauses that are detrimental to consumers [3].

In practice, insurance consumers are often in a weak position because insurance companies have greater authority in drafting the contents of insurance contracts. This situation creates a need for adequate legal protection for insurance consumers [4].

Legal protection for consumers of insurance services in Indonesia is regulated in various positive legal provisions, such as the Commercial Code, Law Number 40 of 2014 concerning Insurance, and Law Number 8 of 1999 concerning Consumer Protection [5].

Based on this description, this research is important to be conducted in order to analyze legal protection for insurance service consumers based on Indonesian positive law.

B. Problem Formulation

1. What are the legal regulations regarding consumer protection for insurance services in Indonesia?
2. What form of legal protection is provided for consumers of insurance services based on Indonesian positive law?
3. What are the obstacles in implementing legal protection for insurance service consumers?

C. Research Objectives

1. To find out the legal regulations regarding consumer protection for insurance services in Indonesia.
2. To analyze the forms of legal protection for insurance service consumers.
3. To identify obstacles in implementing legal protection for insurance service consumers.

II. RESEARCH METHOD

This research uses a normative legal research method with a statute approach and a conceptual approach. Normative legal research is conducted by examining various laws and regulations, legal theories, and scientific literature related to legal protection for insurance service consumers [6].

The legal materials used consist of:

1. Primary legal materials in the form of the Commercial Code, Civil Code, Law Number 40 of 2014 concerning Insurance, and Law Number 8 of 1999 concerning Consumer Protection.
2. Secondary legal materials in the form of books, scientific journals and previous research results.
3. Tertiary legal materials in the form of legal dictionaries and legal encyclopedias.

The technique for collecting legal materials was carried out through literature studies and analyzed descriptively qualitatively.

III. DISCUSSION

A. Legal Regulations for Consumer Protection of Insurance Services in Indonesia

Legal protection for insurance consumers in Indonesia is regulated by various laws and regulations. The main basis for insurance regulations is contained in the Commercial Code, specifically Article 246 of the Commercial Code, which regulates the definition of insurance [7].

Article 246 of the Commercial Code

In addition to the Commercial Code, further regulations regarding insurance are regulated in Law Number 40 of 2014 concerning Insurance. This law regulates insurance business activities, the financial health of insurance companies, policyholder protection, and supervision by the Financial Services Authority (OJK) [8].

Consumer protection for insurance services is also regulated in Law Number 8 of 1999 concerning Consumer Protection. This law emphasizes that consumers have the right to comfort, security, and safety in using goods and/or services [9].

B. Forms of Legal Protection for Insurance Service Consumers

Legal protection for insurance service consumers can be divided into preventive and repressive protection.

1. Preventive Legal Protection

Preventive protection aims to prevent disputes between insurance companies and consumers.

a. Information Transparency

Insurance companies are required to provide clear, correct, and honest information about insurance products to consumers [10]. This transparency is important so that consumers understand the contents of the policy, their rights, obligations, and the risks that may arise.

b. Supervision by OJK

OJK has the authority to supervise insurance companies to ensure the protection of financial services consumers [11].

c. Prohibition of Detrimental Standard Clauses

The Consumer Protection Law prohibits the inclusion of standard clauses that eliminate the responsibility of business actors or limit consumer rights [12].

1. Repressive Legal Protection

Repressive protection is carried out after a dispute occurs between the consumer and the insurance company.

a. Dispute Resolution Through the Courts

Consumers can file a lawsuit for breach of contract or unlawful acts against the insurance company [13].

b. Dispute Settlement Outside the Court

Insurance disputes can also be resolved through mediation, arbitration, or alternative dispute resolution institutions [14].

c. Complaints to the OJK

Consumers can submit complaints to the OJK if they feel they have been harmed by the insurance company [15].

C. Obstacles to Legal Protection for Insurance Service Consumers

1. Low Financial Literacy

There are still many people who do not understand the contents of insurance policies and claim mechanisms, so they are easily disadvantaged [16].

2. Imbalance in the Position of the Parties

Insurance companies have a dominant position in contract drafting because they use standard agreements [17].

3. Weak Supervision

The cases of default by several insurance companies show that supervision of the insurance industry still needs to be strengthened [18].

4. Complex Dispute Resolution

Settling insurance disputes often takes a long time and costs a lot of money, which is a burden on consumers [19].

IV. CLOSING

A. Conclusion

Based on the results of research and discussion regarding legal protection for consumers of insurance services based on Indonesian positive law, it can be concluded that legal protection for consumers of insurance services has been regulated in various laws and regulations, namely the Commercial Code, Civil Code, Law Number 40 of 2014 concerning Insurance, and Law Number 8 of 1999 concerning Consumer Protection.

Legal protection is provided in the form of preventive and repressive measures. Preventive protection is implemented through mandatory information transparency, oversight by the Financial Services Authority (OJK), and a prohibition on standard clauses that harm consumers. Meanwhile, repressive protection is implemented through dispute resolution mechanisms, both in court and out-of-court.

However, the implementation of legal protection for insurance consumers remains suboptimal. This is due to low public financial literacy, weak oversight of insurance companies, and the dominance of insurance companies in drafting standard contracts.

Therefore, it is necessary to strengthen supervision by the OJK, increase information transparency by insurance companies, and educate the public about their rights and obligations as consumers of insurance services to create legal certainty and justice.

B. Suggestions

1. The government and OJK need to increase supervision of insurance companies.
2. Insurance companies must increase transparency of information to consumers.
3. The public needs to increase their understanding of their rights and obligations in insurance agreements.
4. Dispute resolution mechanisms need to be simplified to make them more accessible to consumers.

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