

Legal Protection for Online Loan Business Actors

Regarding personal data

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ABSTRACT

The purpose of this research is to find out whether the personal data protection law gives legal certainty to online loan business actors. The research method used is to use a normative approach and Law no. 27 of 2022 and the theory of legal certainty. From the research results of Law no. 27 of 2022 concerning Protection of Personal Data does not provide legal certainty for Online Loan business actors, Protection of Personal Data concerns online loan entrepreneurs to carry out *announcing* data on its customers has increased, while an increase in online lending customers equals an increase in problems in billing stubborn creditors. Loan entrepreneurs certainly won't do billing by themselves and definitely need help from various sources *outsourcing* which will spread the data of its customers, because many consumers will let go of responsibility and run away from the city or even the country.

Keywords: Law, Online, Business, Constitution, Consumers

1. INTRODUCTION

This increasingly rapid technological development has entered various human aspects, both entering inside aspects of social life, culture, politics, economics, and law. It does not rule out the possibility of dealing with financial transactions, which are greatly facilitated by technological developments. Internet use (*interconnection networking*) which is a medium of information and electronic communication also provides various activity both in the form of services and products such as financial technology (*fintech*).

In this case we can see the use of internet technology in transactions finance very rapidly during the Covid – 19 pandemic where many people - people with low incomes are looking for funds to connect the wheels of the family economy. With this in mind and the rapid increase in public knowledge of this technology, the development of the digital economy has become one of the fundamental changes and has made it a service provider medium in lending and borrowing activities with information technology-based money-lending services in which these services contribute to national development and economy. Development Technology creates so many business opportunities and creates all kinds of opportunities that change will understand digital, information technology.

The loan system in online loan applications is implemented by the system “*peer to peer lending*”, namely the organizer of the agreement that brings together lenders and loan recipients

through the internet network, the presence of this system can certainly have a positive impact, namely some residents who live in remote areas or inremote – remote areas can easily carry out the process of borrowing money (Beck & Beck-Gernsheim, 2013). The presence of innovation in the financial sector will have two sides, on the one hand it will provide benefits or a side that has the potential to disrupt traditional financial services. Effectdisruption willcan happen raisesinstability financial sector and unfair competition.

At present the growth of online loans or most of what is called pinjol is very fast, beyond the expectations of many people in a short time of less than two years thousands of fintechs have sprung up offering online loans, data from the Financial Services Authority (OJK) shows the numberfintech currently registered 127 while for illegal finetech is 1230 (Myranika, 2021).

Online loans offer many features that benefit consumers compared to banking, as a result in the last two yearsfintech Online loans are growing very fast. With someone's online loanNow Those who want to apply for a loan, just need to download the application or access the loan service provider's website, then for the next step, fill out and upload the required documents and the funds will quickly enter the borrower's account. However, there are a number of negative things that arise, for example, such as the spread of the borrower's personal data because the online loan verification process is carried out online and will ask the loan recipient to access all data, this isreally high risk for the borrower's personal data whenabused.

Requests for consumer personal data are actually needed bygiver loan thatthere called pinjol to doassessment to prospective borrowers and to ensure that the borrower is really the right personhis name listed in the application that has been used, but in some cases contact access is used to make billing. Seeing the many cases of online loans, how do consumers protect against online loans? Howconnection the parties? And how about personal data protection? So fromit's a journal This will describe the above as a general review of online loans.

2. RESEARCH METHODS

This type of research is normative juridical research. According to the opinion of Ronny Hanitijo Soemitro's empirical juridical approach is the opinion of the literature which is guided by the rules of books or legal literature and materials that have a relationship to problems and discussions in article writing (Lieberman et al., 2016). This writing method is used with dataseconds with materials that include legal documents, books, articles and others - the approach used is a statutory approach carried out by various legal regulations related to personal data protection, namely Law No. 27 of 2022 concerning Protection of Personal Data and other related regulations.

3. RESULTS AND DISCUSSION

Rules Regarding Online Loans

Legal development is an effort to form a new law to adapt to the law that applies at this time. Legal development means building a legal system, along with its instruments related to it with the upholding of the rule of law. Inside National Long Term Development Plan (RPJPN) 2005 – 2025, legal development is carried out to achieve the mission of realizing a nation that is competitive and public democratic based on law (Fanggi et al., 2019).

This is part of the 8 (eight) National Development missions in the framework of dealing with development national in the period 2005 – 2025, namely the realization of an independent, advanced, just and prosperous Indonesia. The intermediation function carried out by various financial service institutions has in its development made a significant contribution in providing funds to finance the national economy. Therefore, the state must pay serious attention to the development of these financial sector services by seeking to establish an integrated and integrated regulatory and supervisory framework for financial sector services comprehensive.

Increase legal development in the field the economy has formed a regulation that will ultimately lead to the welfare of society. Economic law is a rule of law that regulates and influence everything related to the national economy, be it the rule of law that is private or public, written or unwritten, that regulates the activities and life of the country's national economy (Shigong, 2010). The rapid growth of the economy also develops related to economic law, because enabled as a barrier and regulator of a country's economic activities even across national borders while still considering the rights and obligations of the community.

The rights and obligations as well as the interests of citizens must be protected by the government for the sake of reach a goal, namely the welfare state *Welfare State*. The form of community legal protection is realized from formal law which aims to advance the national economy through government policies contained in the formal law. In this case, to realize the growth of information technology-based financial service institutions so that they can contribute more to the national economy, regulations have been drafted “*peer to peer lending*”.

The regulation places more emphasis on regulation and supervision to encourage the development of financial technology so that it can utilized by many people. With this in mind, the Financial Services Authority (OJK) issued regulation Number 77/POJK.01/2016 concerning information technology-based lending and borrowing services. This regulation has regulated about one type *fintech* currently developing in Indonesia. This is because the OJK sees the urgency of having regulatory provisions *fintech*, strengthening the culture of borrowing and borrowing (debt) in



society Indonesia. Apart from that the company *fintech* is the scope of the Financial Services Authority (OJK) because the company provides financial services. However, the company does not yet have an institutional legal basis in carrying out its business activities.

Review General Fintech

With the development of technology, there are many types of fintech, including financial innovations related to payments and transfers, financial service institutions and companies *startup fintech*, which uses new technology to provide services faster, cheaper and more convenient. Companies in the investment sector also compete by using technological innovation in selling existing products produced. *Whole fintech* These provide many conveniences for financial consumers to buy and use financial products and services at this time (De Kerviler et al., 2016).

According to Bank Indonesia regulation No. 19 of 2007 *fintech*, consists of several categories article 3 paragraph 1 reads “*The implementation of financial technology is categorized into:*

- a) Payment system.
- b) Market support.
- c) Investment management and management risk.
- d) Loans, financing, and capital provision, and It is Other financial services”.

Technology-based lending and borrowing services are one of a kind *fintech* which is in great demand by the public because it provides convenience for public who need faster credit. Online lending is also an illustration of an online marketplace where lenders, called lenders, can lend to individuals and small businesses (Mach et al., 2014). The company to give competitive bidding to bring together lenders. This advantage is a very low interest margin, fees administration low, ability to offer loans to borrowers rejected by banks.

The focused nature of their activities ensures that the administrative costs and additional expenses required to set up the platform are relatively low. How online loans work include:

- 1) The process for borrowers, after registering, the borrower will submit a loan proposal. Online lenders will analyze credit, borrowing history, amount of borrower's income, to determine the loan size and loan interest sector.
- 2) The process for lenders will provide personal data information to the organizers *peer to peer lending* such as identity cards, account numbers, number telephone and so on, after the registration process the lender can see the profile of the loan recipient and decide who to give the loan to.



3) Organizers as business entities in Indonesia will process personal data from the lender and managing funds from the lender as well as the lender's personal data, the organizer also conducts an analysis of the borrower.

above system here it is which has not been owned by other financial institutions. They have also created an online platform to provide facilities with organizer terms, for fund owners to provide loans directly to borrowers return higher, while the borrower can apply directly to the owner of the funds through an online provider with relatively easier and faster conditions. If compared to With conventional banks, the credit application process can take up to 7-14 days, while online loans take 3-5 days to be disbursed immediately.

This practice makes people have more choices in determining financial assistance. Process application The loan in question usually follows the following process:

- 1) The borrower enters the application or website.
- 2) Register and fill out the form provided.
- 3) The platform then analyzes and qualifies the proposed loan.
- 4) Loans that work and pass on platform With this, the lender can provide a commitment and for the loan.

Online loans can be downloaded at various smartphone as well as many of these companies that provide facilities that benefit loan recipients. Most of the conditions specified are having an identity card (KTP), Taxpayer Identification Number (NPWP), sim card telephone active. Likewise, payments or refunds can be made easier, by way of transfer.

Legal Relationship Between Both Parties

According to the Civil Code (KUHP) online loans are classified in article 1754 of the Civil Code which are as follows "*Borrowing is an agreement where the first party gives the other party a certain amount of goods - goods that are used up due to use, with the condition that the latter party will return the same amount of goods of the same type and condition*" (Lummer & McConnell, 1989). In the loan agreement, the recipient of the loan (debtor) will replace the borrowed object. to return this matter requires agreement from both parties and in this case along with the interest and the amount of interest, the borrower must pay the interest according to what was agreed.

In peer to peer lending there are three parties concerned, namely lenders, borrowers, and organizers, where each of these parties creates a legal relationship with one another. Providers of technology-based loans are referred to in the Financial Services Authority (OJK) regulation Number 77/POJK.01/2016 article 1 number 6 is "*Information technology-based money lending*



service providers, hereinafter referred to as organizers, are Indonesian legal entities providing, process, and operate information technology-based money lending services.

Organizer in carrying out this online lending and borrowing agreement as a service institution finance others in the form of legal entities in the form of limited liability companies or cooperatives. The legal entity that is the organizer is required to apply for licensing and registration to the Financial Services Authority (OJK). Borrower is "persons and/or legal entities that have debts due to information technology-based money lending service agreements" (Indaryanto, 2012). The lender in his understanding is "Lenders are legal entities and/or business entities that have receivables due to information technology-based money lending service agreements" (Rahyani, 2012). The borrower is the party that give loans or funding to loan recipients who need funds which are then brought together by the organizers.

The legal relationship between organizers, lenders and loan recipients is based on an agreement that arose after the agreement was agreed (in online form). Between the organizer and the recipient of the loan, there is a legal relationship, namely an agreement. However, the agreement between the provider and the recipient of the loan in the form of an agreement to use the information technology-based money lending service is born when the loan recipient has accepted all the conditions of use set by the organizer and then made a loan application based on predetermined conditions. by the organizers. The relationship between the organizer and the lender occurs when an agreement has been approved between the organizer and the lender. The agreement was born because the lender binds himself to the organizer to provide a loan to loan bids from loan recipients submitted through the organizer.

This organizer agreement is considered the beginning of a loan agreement that will occur between the borrower and the lender because a new loan agreement will occur when the lender agrees to provide loan funds to the prospective loan recipient. Therefore participation the organizer in the agreement that will occur between the lender and the recipient of the loan only functions as an intermediary to bring together the lender and the recipient of the loan. The organizer agreement is strengthened by confirmation from the organizer regarding the funding approval for the bid submitted. Confirmation is marked by the sending of a funding form by the lender (Renduchintala et al., 2022). While the agreement between the lender and the recipient of the loan occurs because of a loan agreement as stipulated in the Civil Code (KUHPer) article 1754 which reads "*Borrower agreement where the first party gives the other party a certain amount of goods - goods that have been used up, with the condition that the latter party will return the same amount of the same type and condition*".

The Urgency of Personal Data Protection Policy In The Use of The Pinjol Application

Basically the law is formed to protect the public interest, namely there are three interests that are protected by law namely: “*Public interest, individual interest, dan interest of personality*” (Oktaviani & Arafat, 2022). Meanwhile, according to Satjipto Rahardjo's opinion, legal protection is the protection of people's human rights to protect against all actions that harm people other so that people can enjoy the rights granted by law. In essence, legal protection is a very important instrument for realizing legal objectives including justice, benefit and legal certainty, this is a driving tool given the authority by the law itself.

The Government of the Republic of Indonesia has a constitutional obligation granted by the 1945 Constitution as stated in paragraph 4 as the goal of the state, that the government is obliged to protect all the Indonesian nation and all of Indonesia's bloodshed and to promote public welfare, educate the nation's life, and participate in carrying out world order based on freedom, eternal peace, and social justice (Roesli et al., 2017). To respond to the rapid development of technology, information and communication, the country's goal is implemented on personal data protection for every citizen of Indonesia. Thus, the constitution provides space for the form of laws and regulations to make regulations or policies in the context of tackling crimes against the use of personal data and protecting ownership of personal data.

The law is very important as *regardless of policy* which is an instrument in the rule of law regarding the administration of government in achieving state goals. This has implications for every regulation made by the government which is an instrument of legal protection and enforcement of human rights for all people or citizens. There is something to note that the process of forming laws is not easy because they depend on dynamic and unpredictable political processes, so discussing laws and regulations seems protracted or even stopped due to a change of position [19]. The increasing number of people in the use of electronic media has the potential to cause a transfer of crime and violations to cyberspace, this is because behavior people who too often ignore sensitive information on the internet, giving rise to malicious intent for these individuals as malicious intent.

In this case the definition of personal data is “*data about identified or identifiable individuals identified alone or in combination with other information, either directly or indirectly via electronic means nonelectronic*” (Callaghan et al., 2009). This regulation is indeed enforced for every person, public body, and international organization that commits an act, the legal acts in question are:

- 1) Which is in the jurisdiction of the Republic of Indonesia.
- 2) Outside the jurisdiction of the Law of the Republic of Indonesia.

- a) In the territory of the Republic of Indonesia and/or
- b) For personal data subjects of Indonesian citizens outside the jurisdiction of the Republic of Indonesia [21].

The protection of personal data is regulated in the electronic information and transaction law (ITE) which includes protection from illegal access by other parties, protection by electronic system operators, as well as protection by administratorssystem electronics, as well as protection without the permission of the person concerned. Protection of personal data in the ITE Law is listed as follows:

1. Unless otherwise stipulated by laws and regulations, the use of any information through electronic media concerning a person's personal data must be carried out with the consent of the person concerned.
2. Every person whose rights are violated as referred to in paragraph (1) can file a claim for losses incurred under this law.

From the provisions of the articleson it implies that every user of personal data on electronic systems is required to obtainagreement data owner. In this case there is a violation, then a lawsuit can be made for the losses that arise. In this case that personal data is a form of a person's personal rights, in general there are already regulations regarding actions that are prohibited regarding personal data, namely articles 30 to articles 33 and articles 55 of the information and transaction law.electronic (Susha et al., 2019).

Regarding the protection of personal data that becomesthe subject are individuals who have personal data attached to them [24]. In matters related to online loans, lenders are required to maintain personal data solely to protect the personal data of loan recipients so that they are not used for things that are prohibited by law and public order. Furthermore, in the Financial Services Authority Regulation Number 77/POJK.01/2016 concerning information technology-based money-lending services, article 26 letter (a) which reads "*Maintain the confidentiality, integrity and availability of personal data, transaction data and financial datamanaged since the data was obtainedso that those datadestroyed*". So it is clear that regarding the protection of personal data, it should be protected by the parties concerned.

As there are rules there are sanctions forthe offender. Everyone who commits an act that is contrary to the law will be subject to sanctions in accordance with the applicable provisions, so it can be understood that all actions related to the law will also have legal consequences, in this case the violator has violated the rights of others by not maintaining or disseminating data personally, so that the perpetrator must accept the legal consequences of his actions, namely the imposition of punishment or sanctions.

4. CONCLUSION

In principle, the state has provided protection to online loan actors and entrepreneurs regulated in the Financial Services Authority Regulation (POJK) and provides protection for business actors and consumers regarding online loans, complaints from entrepreneurs and consumers on online loans and education related to the problem of the urgency of personal data. The legal relationship in online loans can be categorized into two, namely the legal relationship between the borrower and the provider of funds and the legal relationship between the provider of funds and the application. The legal relationship of the parties arises after the agreement.

On the other hand, Indonesia has not been fully effective regarding personal data protection even though regulations have been formed, so efforts are being made prevention and the handling of personal data protection cases has not been maximized. In addition, people's understanding of online loans is still low, so they are widely used by illegal online loans, where the status is unclear. To overcome this, the government is expected to be more assertive in handling and enforcing regulations, so that the functions and objectives of the law are truly maximized as they should be.

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