

Upaya Perlindungan Hukum bagi Debitur dalam Perjanjian Pinjaman Online Ilegal = Legal Protection Efforts for Debtors in Illegal Online Loan Agreements

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Abstrak

Tulisan ini menganalisis mengenai bagaimana keabsahan perjanjian pinjam meminjam online ilegal, upaya perlindungan hukum terhadap debitur yang menggunakan aplikasi pinjaman Online ilegal dan upaya pemerintah dalam memberantas peredaran pinjaman Online ilegal di Indonesia, perlindungan hukum debitur melibatkan data pribadi (undang-undang), serta upaya preventif dan represif dari pemerintah. Pada dasarnya, kontrak elektronik atau digital ialah perjanjian antar pihak yang dibuat melalui sarana yang berbeda, khususnya sistem elektronik. Dengan mempergunakan metode penelitian doktriner, sumber data diperoleh dari data sekunder. Pasal 1320 KUH Perdata mengatur syarat-syarat sahnya suatu perjanjian, yang berdampak pada sahnya perjanjian pinjam meminjam online. Perjanjian online dengan demikian sah apabila dianggap sah karena diatur di KUH Perdata, khususnya Pasal 1320 dan 1338 KUH Perdata yang mengatur tentang perjanjian. Akan tetapi, Perjanjian melalui pinjaman online Ilegal tidak sah menurut hukum perjanjian dan hukum nasional. Hal itu disebabkan pinjaman online Ilegal banyak melanggar peraturan hukum nasional seperti melakukan pemerasan sesuai Pasal 368 Kitab Undang-Undang Hukum Pidana (KUHP) dan melanggar UU ITE serta perlindungan konsumen. Pemerintah telah melakukan edukasi literasi keuangan, sosialisasi hukum, dan analisis data pinjaman online ilegal. Tindakan represif termasuk larangan, penyelidikan, identifikasi situs berbahaya, rekomendasi tindakan, dan bantuan hukum bagi debitur yang mengalami kerugian.

.....This article analyze the validity of illegal online lending and borrowing agreements, legal protection efforts for debtors who use illegal online loan applications and the government's efforts to eradicate the distribution of illegal online loans in Indonesia, legal protection of debtors involving personal data (law), as well as efforts preventive and repressive measures from the government. Basically, electronic or digital contracts are agreements between parties made through different means, especially electronic systems. By using doctrinal research methods, data sources are obtained from secondary data. Article 1320 of the Civil Code regulates the conditions for the validity of an agreement, which has an impact on the validity of online lending and borrowing agreements. Online agreements are therefore valid if they are inline with the Civil Code, specifically Articles 1320 and 1338 of the Civil Code which regulate agreements. However, agreements via illegal online loans are invalid according to contract law and national law. This is because illegal online loans often violate national legal regulations, such as committing extortion in accordance with Article 368 of the Criminal Code (KUHP) and violating the ITE Law and consumer protection. The government has carried out financial literacy education, legal outreach, and data analysis of illegal online loans. Repressive measures include prohibitions, investigations, identification of dangerous sites, recommendations for action, and legal assistance for debtors who experience losses.