Insurance Regulation Updates in Facing Insurance Developments

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Abstract

The insurance business contributes to Indonesia's progress by protecting individuals and businesses from financial risks and channeling public funds into productive investments that support national economic growth. Insurance can provide a sense of security, enabling individuals and companies to operate more stably and boldly in taking business risks, while the collected funds are channeled into various investment instruments that stimulate economic development. Essentially, insurance is a financial service product that offers risk transfer services, so the main function of insurance is to transfer risk from the Insured to the Insurer. The current development of the insurance business brings significant changes that can bring innovation and convenience for consumers, but the development of the insurance world is not in line with existing regulations, which can give rise to problems in the future, so that the need for renewal of insurance regulations that govern the development of insurance. The purpose of this study is to determine insurance regulations in facing the development of insurance and to understand the development of insurance to the needs of the community. The type of research used is a juridical-normative with a legal history and legislation approach. The data used is secondary data. Qualitative methods are used to analyze and describe the data descriptively. The research results show that insurance regulations, in response to the development of insurance, still rely on existing insurance regulations, namely Insurance Law No. 40 of 2014 concerning Insurance Business and Financial Services Authority Regulation No. 13/POJK.02/2018 concerning Digital Financial Innovation, which regulates technology insurance. These regulations are still insufficient to regulate all insurance provisions adapted to business developments in Indonesia. The development of insurance to meet public needs can be seen in the increasing public interest in insurance.

Keywords: ***Regulation; Insurance; Development; Technology***

INTRODUCTION

Insurance arises from human needs. As is well known, in navigating life and living, humans are constantly faced with uncertainty, which may or may not be beneficial.[1]

Humans expect security for their possessions, health, and well-being, without lacking anything. However, humans can only strive, while Almighty God determines everything. Therefore, every human being, without exception, in this mortal world always faces various risks, which are inherent in human nature and demonstrate their powerlessness compared to the Almighty Creator.[2]

The possibility of suffering a loss is called risk. The need for insurance protection or guarantees stems from the desire to overcome uncertainty. Uncertainty carries risks that can pose a threat to all parties, both individuals and businesses.

This uncertainty gives rise to the need to address the risk of loss that may arise as a consequence of that uncertainty. The risks that arise can stem from natural disasters, accidents, illness, negligence, incompetence, errors, failures, or various other unforeseen causes, including acts of rioting, sabotage, and terrorism. Each risk may require a different form of management.[3]

Insurance is a form of risk transfer. Decision-making regarding risk management is based on whether the identified risks due to uncertainty can be prevented, avoided, borne by the individual, or transferred to another party.[4]

The demand for insurance coverage continues to grow in line with the complexity of risks that arise and threaten individuals and businesses. The protection of insurance services to address these risks has given rise to the insurance industry as a business. The insurance industry can play a vital role in a nation's economy by providing risk transfer services, enabling individuals and businesses to effectively plan their protection against risks arising from uncertainty.[5]

Meanwhile, for the insurance industry, the risks of uncertainty faced are measurable and generally have statistics supporting the risk transfer process. Man S. Sastrawidjaja and Endang argue that given the positive benefits of insurance protection, the existence of insurance should be maintained and developed.

To develop this business, many factors must be considered, including adequate laws and regulations, public awareness, honesty of the parties, good service, community income levels, understanding of the benefits of insurance, and a thorough understanding of related laws and regulations.

The above statement illustrates that the existence of adequate insurance laws and a sound understanding of legal provisions in the insurance business sector are among the important factors in developing the insurance business.

The insurance industry is currently experiencing rapid developments in line with technological advancements. Digital transformation in the insurance industry has given rise to digital insurance, known as insutect, or technology insurance. The use of digital insurance technology can simplify claims processing, provide transparency, and provide security in digital services.[6]

These developments in the insurance industry necessitate the renewal of insurance regulations to accommodate all current insurance developments in Indonesia.

The urgency of this research is to examine the development of insurance regulations in response to existing insurance developments and to examine the development of insurance in response to increasing public needs.[7]

PROBLEM FORMULATION

The research questions are:

1. How do insurance regulations respond to insurance developments?
2. How does insurance development relate to public needs?

RESEARCH METHOD

This paper uses a normative juridical method, an approach focused on examining applicable positive legal norms, both in the form of relevant laws and legal doctrines. This study aims to understand insurance regulations in response to the development of insurance and to understand how insurance developments respond to public needs. Data were collected through library research, with primary sources being relevant laws and regulations, legal journals, scientific articles, and court decisions. Qualitative analysis was conducted by interpreting the content of legal norms and comparing them with actual practices and challenges faced by the insurance industry in the digital era. This study also employed a qualitative approach to formulate recommendations regarding insurance law updates that can accommodate technological dynamics and the need for legal protection for consumers and business actors in this sector.[8]

RESEARCH RESULTS AND DISCUSSION

A. Insurance Regulations in Facing Insurance Developments.

Sri Soemantri stated that since its inception, the Unitary State of the Republic of Indonesia has embraced the concept of a Welfare State, as enshrined in the Preamble to the 1945 Constitution. To achieve this goal, the state must sustainably implement development in all sectors. In implementing development, various types of risks must be addressed by the public. As a means of mitigating risks and simultaneously serving as an institution for collecting public funds, the insurance industry plays a strategic role in the development and economic life of the country, striving to create general welfare, which is the goal of the Indonesian state.[9]

To achieve this goal, the state needs to enhance the role of the insurance industry in development and provide broader opportunities for those wishing to operate in the insurance sector, while maintaining sound and responsible business principles, thereby making a significant contribution to boosting national economic activity.[10]

As an institution that collects public funds and must conduct its business adhering to sound and responsible business principles, the insurance industry is a sector Businesses that must comply with government regulations.[11]

To examine the overall scope of Indonesian insurance law, insurance will be divided based on its status: first, insurance as an agreement subject to general agreement regulations and serving as a reference in the creation of every insurance agreement regulated under the Civil Code; second,[12]

Insurance as an agreement serves as a reference for drafting every insurance contract under the Commercial Code, and third, insurance as a business that regulates the behavior of those running insurance businesses.

As is known, insurance regulations in Indonesia have existed since the Dutch East Indies era. At that time, the applicable regulations were based on the Ordonnanntie ophet Levensver zekeringbedrijf (Staatsblad 1941 Number 101). The government then enacted Law No. 2 of 1992, which was subsequently revoked and replaced by Law No. 40 of 2014, which has also been partially amended by the PPSK Law. Therefore, currently, the applicable insurance regulations in Indonesia are Law No. 40 of 2014 and the PPSK Law.[13]

The next insurance regulation is regulated by OJK Regulation No. 13/POJK.02/2018 concerning Digital Financial Innovation, which governs technology insurance and digital financial innovation in Indonesia. In accordance with its authority, the Financial Services Authority (OJK) provides consumer protection as stipulated in Law Number 21 of 2011 concerning the Financial Services Authority (OJK). It has prepared a number of regulations to regulate and oversee the development of financial services businesses that utilize technological advancements, also known as Financial Technology (fintech).[14]

The next regulation regarding the development of technology insurance is regulated through OJK Regulation (POJK) Number 8 of 2024, which regulates insurance products and marketing channels for insurance products, both digitally and through the internet.[15]

This new regulation was issued as part of the mandate of Law Number 21 of 2011 concerning Financial Services Authority

(OJK) Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (PPSK Law)

B. Insurance Development Responding to Community Needs

Concern over uncertainty creates risks that can threaten anyone, giving rise to the need to mitigate the potential losses that arise from such uncertainty. The risks faced can stem from natural disasters, negligence, incompetence, or other unforeseen causes. However, not everyone buys insurance, and not all risks are insured.

For those who do, the type, amount, and cost of insurance purchased are the result of considering various factors. Other factors influencing the demand for insurance include the additional cost of insurance above the insurer's cost (premium loading).[16]

Income and wealth, information held by other sources of compensation, and intangible losses. The higher the additional cost charged by the insurer to the insured, the lower the demand for insurance. This burden cannot be zero because insurers must receive compensation for the costs they incur. Income and wealth can influence the demand for insurance for four reasons, as follows.[17]

Greater wealth means more assets can be damaged or lost, which generally increases the amount of insurance purchased.

a. Some people cannot afford large amounts of insurance due to pressures from more essential living expenses, which results in poorer individuals taking on greater risks.
b. Risk aversion decreases with increasing wealth.
c. Limited legal liability often leads people to purchase less liability insurance.

Demand for insurance also depends on information a person has about the distribution of risk, namely their perception of the likelihood of loss and the availability of other sources of compensation. For example, government compensation, such as disaster relief funds, is available in connection with the purchase of insurance for catastrophic risks and non-monetary losses.[18]

Every business entity desires security for its assets and interests or legal responsibilities. Management, who are responsible for the success and survival of the business entity they manage, needs to manage risk to ensure that, in the event of a disaster, the financial performance of the business entity will not suffer a decline. Considerations arising from a decision regarding the form of risk management a party will take will be based on whether the risks that may arise due to uncertainty can be prevented, avoided, borne by the party itself, or transferred to another party.[19]

Risk transfer through insurance is one way to address these risks faced by stakeholders.. Likewise, the scope of insight, knowledge, or ignorance possessed, abilities or inabilities, or limitations or regulations that determine the attitudes of each individual or legal entity. Therefore, while the need for ways to address this uncertainty is inherent in every legal entity or individual, the actions taken by each party, even in the face of the same risk, may vary.[20]

The public's need for insurance will continue to evolve in accordance with the needs of each era. Today, this need has expanded to include, but is not limited to, the needs listed below:[21]

a. As protection against financial risks resulting from:
   1) loss, damage, and loss of property owned or controlled;
   2) legal liability claims for personal errors and/or negligence or those under their supervision or responsibility, or those whose actions are related to them under the law;
   3) expected income or profits;
   4) uncollectible receivables;
   5) medical or health care costs.
b. As compensation for loss of limbs, disability, or death.
c. As a guarantee of continued income for oneself (including business entities) and family (or those responsible, including employees).[22]
d. As a means of investment and savings.
e. As a means of risk sharing and mutual assistance in the event of a disaster.
f. As a strategy for efficient capital utilization, eliminating the need to reserve for potential losses, allowing capital to be fully utilized for business purposes. Supporting business policy-making strategies or personal actions, for example, regarding investment plans or business expansion, providing credit, the risk of contract failure, and high-risk personal activities.[23]
g. The basis for setting budgets, and
h. Providing a sense of security knowing that potential risks will be covered by the insurance company.[24]

CONCLUSION

There is a need for insurance law reform to address current insurance developments. Legal reform is urgently needed given changing consumer behavior in the digital era, which demands transparency, speed, and convenience in insurance services. Existing regulations should provide legal certainty for both service providers and consumers. [25] This is crucial to prevent future problems. National laws need to be aligned with emerging international trends in the insurance industry. Therefore, regulatory reform must be carried out comprehensively and continuously, taking into account social, cultural, and technological changes. Currently, regulations regarding insurtech are regulated through the Insurance Law. Law No. 40 of 2014 concerning insurance businesses and Financial Services Authority Regulation (POJK) No. 8 of 2024, which regulates insurance products and marketing channels, both digitally.[26] The development of insurance to meet current societal needs continues to increase, along with the development of digital insurance, which brings convenience to those who purchase insurance.[27]

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