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Position of the Insured in Credit Life Insurance

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ABSTRACT: *This study aims to analyze the position of the insured in credit life insurance involving an insurance company as the underwriter and a bank as the policyholder in the practice of providing credit. In credit life insurance schemes, banks typically require the debtor to become the insured to guarantee repayment of the loan in the event of death. However, the resulting legal relationship often places the insured in a less secure position because insurance agreements are generally concluded between banks and insurance companies without the direct involvement of the debtor as the insured party. This situation creates a potential imbalance of interests between banking institutions and insurance companies, which impacts legal protection for the insured. This study uses a normative legal research method with a statutory and conceptual approach. The legal materials used include laws and regulations governing insurance and banking, legal literature, and doctrines related to legal protection in insurance agreements. All of these legal materials are analyzed qualitatively to gain an understanding of the legal position of the insured in credit life insurance. The results of the study indicate that the position of the insured in credit life insurance has not fully received adequate legal protection because their involvement in the insurance agreement is indirect. Therefore, clearer and more comprehensive regulations are needed to ensure the protection of the insured's rights and to create a balance of interests between insurance companies as insurers and banks as policyholders in credit management. This way, synergy between the two sectors can be achieved without neglecting the interests of the insured.*

Penelitian ini bertujuan untuk menganalisis kedudukan tertanggung dalam asuransi jiwa kredit yang melibatkan perusahaan asuransi sebagai penanggung dan bank sebagai pemegang polis dalam praktik pemberian kredit. Dalam skema asuransi jiwa kredit, bank biasanya mensyaratkan debitur untuk menjadi tertanggung guna menjamin pelunasan kredit apabila terjadi risiko meninggal dunia. Namun demikian, hubungan hukum yang terbentuk seringkali menempatkan tertanggung pada posisi yang kurang kuat karena perjanjian asuransi pada umumnya dilakukan antara bank dan perusahaan asuransi tanpa keterlibatan langsung debitur sebagai pihak yang diasuransikan. Kondisi ini menimbulkan potensi ketidakseimbangan kepentingan antara lembaga perbankan dan perusahaan asuransi yang berdampak pada perlindungan hukum bagi tertanggung. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan peraturan perundang-undangan dan pendekatan konseptual. Bahan hukum yang digunakan meliputi peraturan perundang-undangan yang mengatur perasuransian dan perbankan, literatur hukum, serta doktrin yang berkaitan dengan perlindungan hukum dalam perjanjian asuransi. Seluruh bahan hukum tersebut dianalisis

secara kualitatif untuk memperoleh pemahaman mengenai posisi hukum tertanggung dalam asuransi jiwa kredit. Hasil penelitian menunjukkan bahwa kedudukan tertanggung dalam asuransi jiwa kredit belum sepenuhnya memperoleh perlindungan hukum yang memadai karena keterlibatannya dalam perjanjian asuransi bersifat tidak langsung. Oleh karena itu, diperlukan pengaturan yang lebih jelas dan komprehensif guna menjamin perlindungan hak-hak tertanggung serta menciptakan keseimbangan kepentingan antara perusahaan asuransi sebagai penanggung dan bank sebagai pemegang polis dalam pengelolaan kredit. Dengan demikian, sinergi antara kedua sektor tersebut dapat terwujud tanpa mengabaikan kepentingan tertanggung.

Keywords: *Insured Position, Credit Life Insurance.*

I. INTRODUCTION

In the banking industry, one of the requirements for loan disbursement is life insurance coverage for the debtor or customer. This guarantees the remaining balance of the loan at the bank in the event of death. This is mandatory for every loan disbursement process at the bank (Apriyanti et al., 2023; Kartikasari & Kusumawati, 2022).

The life insurance coverage required by banks for the debtor's life is usually achieved through a collaboration between the banking corporation and the insurance company for the life of the customer who owes the bank (D. Sari et al., 2017). Therefore, at the beginning of this process, the customer's or insured's position with respect to the bank as the policyholder and the insurance company as the insurer is weak and indirect. This indirectly contributes to an unbalanced and unfair relationship, as not only are they not involved in negotiating the terms of the agreement, but the agreement to negotiate these terms is usually between the insurance company as the insurer and the banking company as the policyholder (Adipradana, 2019; Kalyana, 2025; Puspitasari et al., 2025).

While laws and regulations concerning consumer protection and insurance provide adequate understanding, they do not fully and in detail address the relationship between the three parties to guarantee core values, both those outlined in the laws and general principles of insurance and agreements (Hidayat, 2026).

This article aims to further examine the position of the insured in credit life insurance against the insurance company as the underwriter and the banking company as the policyholder. Is it true that the insured's position is weak due to the indirect and equal relationship? In this regard, it attempts to examine the conflict of rights and obligations that arises, and the need for legal protection for the insured in credit life insurance?

II. METHOD

This research employs a normative-empirical legal research method, a research method that combines normative legal studies with empirical data obtained from field practice. Normative legal research focuses on the study of norms, principles, and legal provisions contained in laws and regulations and relevant legal literature. Meanwhile, empirical elements are used to determine how these legal provisions are applied in practice,

particularly regarding the position of the insured in credit life insurance in the banking sector.

The research approaches employed include a statutory and conceptual approach. The statutory approach examines various legal provisions related to insurance and banking, while the conceptual approach analyzes legal concepts regarding legal protection and the position of parties in insurance agreements.

The data used in this research comprises primary and secondary data. Primary data was obtained through interviews or information from parties involved in credit life insurance practices. Meanwhile, secondary data was obtained from primary legal materials in the form of laws and regulations, secondary legal materials in the form of books, journals, and previous research results, and tertiary legal materials such as legal dictionaries and encyclopedias (Rosidi et al., 2024).

Data collection techniques were conducted through literature review and interviews. The data obtained was then analyzed using qualitative analysis methods, namely by systematically interpreting and reviewing the data to draw conclusions regarding the insured's position in credit life insurance and the form of legal protection provided (Wiraguna, 2024).

III. RESULT AND DISCUSSION

Relationship between the Insured and the Insurer

Article 246 of the Commercial Code states that insurance is an agreement in which the insurer binds himself to the insured, by receiving a premium, to provide compensation for loss, damage, or loss of expected benefits, which may be suffered due to an uncertain event. Furthermore, Article 1, paragraph 1 states: Insurance is an agreement between two parties, namely the insurance company and the policyholder, which forms the basis for the insurance company's receipt of premiums in return for: (a) providing compensation to the insured or policyholder for loss, damage, costs incurred, lost profits, or legal liability to third parties that may be suffered by the insured or policyholder due to the occurrence of an uncertain event; or (b) providing payment based on the death of the insured or payment based on the life of the insured, with benefits of a predetermined amount and/or based on the results of fund management.

The relationship between the insured and the insurer, both under Article 246 of the Commercial Code and the Insurance Law, is based on the insurer's premium payment, which is a contract between the insurer and the policyholder, or insured, to provide payment in the event of the insured's death or the occurrence of an uncertain event (Hejazziey, 2012; Ramadhan, 2016). This means that based on the premium payment, the insured and/or policyholder receives coverage from the insurance company, acting as guarantor for the life of the insured or policyholder.

It should be noted that neither the Commercial Code, the Civil Code, nor the Insurance Law recognizes a three-party relationship, but only a two-party relationship. This means that from the outset, the insured's position is essentially a confrontation with the insurer (Y. W. Sari & Gunardi, 2016; Suryanto et al., 2025). Essentially, the insured can be either the policyholder or the policyholder, as their insurable interests differ. For example, in the case

of individual life insurance coverage, when a parent wants to insure his adult child, the policy holder can be the parent and the child becomes the insured. Likewise, in corporate/group insurance, in this case the relationship between the insurance company and the banking company, and the insured is the debtor or customer of the bank concerned, because the banking interest lies with its customers, so it is necessary to provide protection against the risk of death and/or due to the occurrence of uncertain events.

However, is it true that the relationship between an insurance company as the insurer and a banking company as the policyholder, where the bank's debtor customer is made the insured for the sake of insurance (insurable interest), namely the customer's credit balance at the policyholder bank, has a balanced and fair relationship, or does it actually create a conflict of rights and obligations due to the lack of a free and direct relationship between the insurer and the insured (Saputra & Djajaputera, 2024)?

The agreement or contract signed by the debtor when entering into a credit agreement with the bank or as the insured when signing a specific form with the insurance company is a standard contract prepared by their respective companies. Therefore, the position of the insurance company and the bank is strong, as there may be exoneration clauses included in the agreement, which, because the customer, insured, or consumer, generally has a weak position and cannot control. According to Meriam, this has the following characteristics:

1. The content is determined unilaterally by the creditor, who is in a relatively strong position compared to the creditor.
2. The debtor has no say in determining the content of the agreement.
3. Driven by necessity, the debtor is forced to accept the agreement.
4. It is in written form.

While this characteristic, particularly regarding the debtor's complete lack of determination of the agreement's content, this is unacceptable because standard contracts are generally drafted to allow other parties to determine the essential elements of the agreement. However, the customer or insured's position remains weak vis-à-vis both companies. This means that the insured's position vis-à-vis the policyholder and the insurer is unequal.

Furthermore, from the perspective of the principle of consensualism related to freedom of contract, an adhesive (take it or leave it) agreement is certainly not as free as an agreement entered into directly, involving all parties in negotiating the terms of the agreement.

The relationship, which is not direct between the insured and the insurer, but rather through the policyholder, namely the bank, which has an interest, can certainly give rise to bias and conflicts of rights and obligations. For this reason, a relationship like this is not only due to having an insurable interest, but also takes into account the principles of justice and the position of the insured in a balanced and fair agreement.

Conflict of Rights and Obligations

From a broader perspective, contract law actually aims to maximize social welfare, in addition to the external self-interest of legal subjects, and one of these is the issue of justice. Our regulations do not address a three-party relationship, but rather a two-party relationship: the insurer and the insured, or policyholder. This is due to the insurable interest. When a risk to the debtor affects the bank as the lender, the debtor needs to be insured, which is a requirement for the bank to disburse the loan. However, because the insurer lacks a direct relationship with the insured, the insurance interest relationship can be unbalanced and unfair.

The insured's position is weak, not only because they are the sole subject of responsibility, but also because their family and heirs, whose awareness of their rights and obligations may be suboptimal. Indirect involvement in providing more transparent and direct information about their health to the insurer can lead to bias, as both the policyholder, through whom the insured provides information, and the insurer themselves, who have different interests (risk selection/underwriting) than the policyholder (merely credit disbursement requirements), can have detrimental consequences for the insured, for example, through administrative errors or omissions. Furthermore, regarding general principles of contracts and insurance (utmost good faith, the principle of balance, consensual, conciliation, and others), the definition and/or imposition of such matters are often interpreted and implemented by the more powerful party without considering the circumstances that could weaken the insured's interests. This unequal and unbalanced relationship can give rise to conflicts of rights and obligations, ultimately requiring the insured to have adequate legal protection within this three-way relationship.

This conflict and obligation arise because the insured, as a debtor to the policyholder, the banking company, which requires the insured's life to be insured as a condition of its credit disbursement, is held accountable by the insurance company, which should have a direct and independent relationship in underwriting. Meanwhile, the insured itself lacks the flexibility to safeguard its interests until the end of the contract, even if the policyholder makes a mistake. In general, there is an imbalance of rights and obligations between the parties in the relationship, so that the conditions set by the stronger party cannot be rejected by the weaker party unless the weaker party is willing to relinquish the right to obtain the goods and services it needs.

This can be seen in the dispute regarding the refusal to pay the death claim of the deceased in the first case, when PT. refused to pay the death claim to the policyholder because the investigation process of the deceased's medical history and diagnostic information, who suffered from a critical illness, differed from the statement previously submitted in the Insurance Application Form through the policyholder, which stated that the deceased was in good health. This dispute occurred between the Bank as the policyholder and the heirs of the deceased, while the insurance company itself was only the defendant. This, according to the author, illustrates that the dispute arose from a debt agreement and default with the bank, which according to the rules is an obligation of the heirs that must be fulfilled, while the amount of insurance money or the remaining credit covered by the insurance company as the insurer was not a dispute as it should be, but rather the insurance company was only the defendant in its relationship with the policyholder. The Court's decision (PN) stated that the main lawsuit was inadmissible because the death of

the deceased resulted in the termination of the agreement and was returned to the insurance company, which in its agreement with the policyholder (Bank) was the party appointed by the insurance company according to the Bank. This case became legally binding because the appeal to a higher court was submitted too late. In the second case, the heirs filed a lawsuit against the Bank and Insurance Company as secondary defendants. The issue was similar, regarding the denial of a death claim, also based on the medical history and diagnosis indicating that the deceased had been treated for a critical illness before registering or completing the Health Certificate or Credit Life Insurance Coverage Application Form, which are required when applying for credit life insurance. The lawsuit was inadmissible because it was vague (unclear defamation) or combined claims of breach of contract and tort.

These two cases demonstrate that the insurer, the insurance company, is not the direct target of the insured's lawsuit, even though it made a crucial decision regarding the claim denial. Even when named as a defendant, it is often a secondary or co-defendant. While it is true that the primary defendant is also a target, this is sometimes the case. Conversely, the insured lacks flexibility and direct access to the insurer, as it disregards the interests of the policyholder (the banking company), especially if the insured protects its interests until the contract expires.

Therefore, the author notes that, in addition to the insurable interest, the insured's life creates a conflict of rights and obligations between the parties. Both the interests of the bank as a policy holder who makes insurance requirements a condition for disbursing credit for debtors, the interests of the insurance company as a guarantor regarding knowledge of the insured's condition as transparently as possible to determine whether it is worthy of being insured or not (risk selection or guarantee), as well as fair treatment of the rights of the insured (i.e. consumers), freedom of choice, correct and clear information, getting guidance and advocacy as well as adequate protection (article 4 UUPK).

Table 1. Three-party relationship in the credit life insurance process

Bank/Policyholder	Insurance/Guarantor	Insured Debtor
The Bank's right to credit; Insurance as a condition of credit (obligation)	Insurance rights to risk selection for coverage obligations	The debtor's right to be treated fairly, to have freedom of choice, and to receive accurate information; to pay off the loan and to provide accurate information.
The Bank as the policyholder	The relationship with the insured is not direct, but through the policyholder	They have no direct relationship with the guarantor.
The remaining credit (outstanding) is the bank's right, which is the debtor's obligation, whose life is covered by the insurance company.	The SPA/SKK form serves as a vital basis for cross-examination with fact-finding	They are not free to oversee their insurance interests until the end of the contract.

The author wishes to convey that the three-party or three-tier relationship in the credit life insurance process indicates that the insurance company does not deal directly with the

insured, as the insured, but rather with the banking company, as the policyholder. Therefore, in terms of consumer protection, benefits, fairness, balance, and legal certainty (Article 2), as well as the goal of creating a consumer protection system that includes elements of legal certainty, information transparency, and access to information (Article 3 of the Consumer Protection Law), it is not achieved. This is despite the insured's (read: consumer's) obligation to follow existing procedures, act in good faith in conducting transactions, pay the premium amount, and properly pursue dispute resolution efforts (Article 5).

It should also be noted that the policyholder's or bank's interest in insurance is only a condition of credit (bank clause), so that once this condition is met, that is, when the debtor's premium has been deducted and deposited with the insurance company, the insurer, the insurance company is obligated to cover the remaining credit in the event of death. Meanwhile, the insurer, in its interest requires true information about the insured's condition for the risk selection or underwriting process, even though this requires a direct relationship with the insured, not with a mere piece of administrative form processed through the policyholder (staff or credit department at the bank). These two interests can truly be fair to the insured, especially when a risk occurs, because there is no direct relationship, a weak or unequal position so that errors or negligence on the part of staff or the credit department can be reduced to a statement from the insured, especially since the insured himself does not monitor this until the end of the contract.

The Need for Legal Protection for the Insured

Legal protection is the protection of dignity and honor, as well as the recognition of human rights held by legal subjects based on legal provisions against arbitrariness or as a collection of regulations or rules capable of protecting one entity from another. In relation to consumers, this means that the law protects consumer rights from anything that could result in the non-fulfillment of those rights. This legal protection is also one of the functions of law, in addition to justice and as a reference to state objectives, where social control can be exercised in three ways: preventive, repressive, and preventive-repressive.

Legal protection is carried out through state intervention to protect the weaker party by determining certain clauses that must be included or prohibited in a contract or agreement, in order to fulfill the principles of balance and freedom of contract. Legal protection for the insured is already broadly regulated in our regulations, including the Consumer Protection Law, the Insurance Law, the Criminal Code, the Indonesian Bank Regulation (PBI), the Financial Services Authority (OJK), and others. However, legal protection for the insured in credit life insurance, particularly in this three-tier relationship, has not been regulated in detail and in accordance with applicable norms.

Protection for the insured according to the Consumer Protection Law is consumer protection, which is all efforts to ensure legal certainty to provide protection to consumers (Article 1). Consumers are users of goods and/or services available in the community, whether for themselves, their families, other people, or other living beings, and are not traded. According to this law, services are services in the form of work or achievements provided to the community for their use. In the insurance law, Law No. 40 of 2014 does not recognize the term consumer, but rather the terms insured, insurer, and policyholder. Therefore, consumer protection as intended by the Consumer Protection Law is protection

for the insured. According to the Insurance Law, the insured is the party facing the risk as stipulated in the insurance or reinsurance agreement.

The protection provisions in the Insurance Law are stipulated in Chapter XI, concerning Protection of Policyholders, Insureds, or Participants, in Articles 53 and 54. This is essentially a policy guarantee program similar in spirit to the Deposit Insurance Corporation (LPS) in banking. The draft bill is still being finalized by the Ministry of Finance. Does this protection also include legal protection for the insured and be given a separate position within this bill? To date, the bill is not on the list of the 2018 National Legislation Program (Prolegnas), and it is suspected that the policy will be implemented after the election at the earliest (Elda, 2019; Ilham et al., 2025).

Article 54 only provides for the establishment of a mediation institution to resolve disputes between insurance, sharia insurance, reinsurance, and sharia reinsurance companies and policyholders, insured parties, participants, or other parties entitled to insurance benefits. Insurance and reinsurance companies are required to be members. This institution is independent and impartial; it must receive written approval from the Financial Services Authority (OJK); and its decisions are final and binding on all parties (Gafuri, 2025; Muhlis et al., 2025).

This means that the Insurance Law does not provide further definition of legal protection for the insured, especially the insured as a third party in an agreement between the insurance company as the insurer and the bank as the policyholder. Even if a mediation institution or policy guarantee institution exists, the author has not observed adequate legal protection provided by the state for the insured, particularly those insured in credit life insurance.

One of the principles of the Consumer Protection Law is justice and balance. Likewise, in agreements or contracts, the principles of balance, proportionality, and freedom of contract must be maintained. Furthermore, legal protection remains based on Pancasila, as the principle of legal protection for human dignity, which is rooted in Pancasila and the principles of a state based on the rule of law (Laksono, 2019; Laoli et al., 2024).

Considering the three-way relationship, where the insurance company acts as the insurer, the policyholder acts as the bank, and the insured acts as the debtor, whose life must be insured against the risk of death due to the loan disbursement requirements, here are several reasons why the insured needs legal protection:

1. The insured's position is weak vis-à-vis the two industrial institutions, banking and insurance, which should be united on equal footing for fair interests. The adhesive agreement (take it or leave it) itself weakens the insured's position, let alone the material, process, and positions of the insurer and policyholder.
2. The different interests of both parties, namely the insurance company as the guarantor for the risk of the insured's life from the customer or debtor, against the credit or remaining credit held by the policyholder, namely the bank that disburses the credit. The insurer is concerned with the health and life of the insured, while the policyholder is concerned with the bank's requirements for disbursing the credit (bank clause).

3. The indirect relationship between the insurer and the insured, because it only expects an active role from the policyholder (bank) towards both the insured and the insurer, creates a potential bias in the underwriting and risk selection process for the insurance company as the guarantor of the insured, as well as the insured's active role in providing information directly and in a weak position.
4. Considering the case samples described by the researcher above, it is evident that when a claim is rejected by the insurance company, when a dispute arises, the insured or debtor usually files a lawsuit against the bank that disburses the credit (policyholder), or vice versa. If a lawsuit does occur against the insurance company, it is usually filed as a co-defendant. This shows that the relationship between the insured and the insurer is not free, even in disputes regarding refusal of claim payment.

IV. CONCLUSION

The insured's position in credit life insurance is truly weak and unbalanced vis-à-vis the industry. All their interests are routed through the policyholder, while the insurance company, as the underwriter, lacks the freedom to conduct risk selection. The insured, because they lack a direct relationship with the insurer, is therefore unable to safeguard their interests until the end of the contract. This imbalance creates a conflict of rights and obligations between the insured and the insurer and the policyholder. This is due to the differing interests of banks, which require insurance for their customers or debtors as a condition of loan disbursement, while the insurance company's underwriter has no direct relationship with the insured, who should have a direct relationship within the framework of risk selection or underwriting. For these two reasons, the insured must be provided with legal protection in credit life insurance, including special regulations and synergy between the interests of banks and insurance companies within a single arrangement.

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