

ABSTRAK

Penggunaan jasa *Debt Collector* oleh Bank dalam melakukan penagihan hutang sudah menjadi hal yang wajar karena telah dilakukan dalam jangka waktu yang lama. Bank Indonesia sebenarnya tidak melarang penggunaan jasa *Debt Collector*, tetapi penggunaan jasa *Debt Collector* harus tetap sesuai dengan ketentuan yang telah ditetapkan oleh Bank Indonesia, sebagaimana yang diatur dalam Peraturan Bank Indonesia (PBI) No. 11/11/PBI/2009 yang telah disempurnakan dengan Peraturan Bank Indonesia (PBI) 14/2/PBI/2012 dan Surat Edaran Bank Indonesia (SEBI) No. 14/17/DASP tanggal 7 Juni 2012.

Permasalahan yang akan dibahas dan dijawab dalam tesis ini, yaitu (1) Apakah pengaturan tentang *Debt Collector* dalam SE BI No. 14/17/DASP tanggal 7 Juni 2012 sudah memberikan jaminan perlindungan hukum terhadap nasabah perbankan dengan mengacu pada *Fair Debt Collection Practices Act*? dan (2) Apakah akibat hukum bagi *Debt Collector* ketika melanggar ketentuan SE BI No. 14/17/DASP tanggal 7 Juni 2012, PBI No. 14/2/2012, dan *Fair Debt Collection Practices Act*? Dari kedua rumusan masalah tersebut diperoleh jawaban (1) Perlindungan Hukum terhadap konsumen/debitur menurut SEBI 14/2012 dan PBI 14/2012 secara umum masih minim atau sangat sederhana dan bahkan memberikan kebebasan bagi *Debt Collector* dalam melakukan penagihan; dan (2) belum diatur akibat hukum berupa sanksi bagi *Debt Collector* di dalam SEBI 14/2012 dan PBI 12/2012, sehingga yang digunakan di Indonesia masih mengacu pada ketentuan umum, dalam arti masih mengacu pada KUHPerdata berkaitan dengan gugatan ganti rugi wanprestasi maupun perbuatan melawan hukum serta KUHP berkaitan dengan sanksi pidana pada umumnya.

Tipe penelitian yang digunakan adalah tipe yuridis normatif, yaitu didasarkan pada studi pustaka yang merupakan norma-norma hukum yang berkaitan dengan proses penyelesaian kredit bermasalah melalui *Debt Collector* sesuai dengan SEBI 14/2012, PBI 14/2012 serta peraturan perundang-undangan FDCPA di Amerika Serikat. Penulisan tesis ini menggunakan *Statue Approach*, yaitu dengan melihat isi atau substansi peraturan perundang-undangan, dan *Comparative Approach* dengan membandingkan peraturan di Indonesia dengan peraturan di Amerika Serikat terkait tata cara penagihan oleh *Debt Collector*.

Kata Kunci: **Debt Collector, Perlindungan Hukum Konsumen /Debitur, SEBI 14/2012 & PBI 14/2012, Fair Debt Collection Practise Acts (USA)**

ABSTRACT

The use of debt collector services by Bank in the conduct of debt collection become a natural thing because it has been done since long times ago. Bank Indonesia does not actually prohibit the use of debt collectors, but the use of this service should be in accordance with the rules regulated by Bank Indonesia as stipulated in the PBI No. 11/11/PBI/2009 which has been revised with PBI 14/2/PBI/2012 and also the terms that regulated in SEBI No. 14/17/DASP. The case of the death of one customers who have delinquent credit card debt shows the act of thuggery by debt collectors who did the debt collection on that case

There are two problems that will be discussed and solved in this thesis (1) Has the regulation about Debt Collector in the SE BI No. 14/17/DASP date 7th June 2012 been giving the law protection guarantee to the customer refers to the Fair Debt Collection Practices Act? and (2) What is the sanction for the Debt Collectors when they break the SE BI No. 14/17/DASP date 7th June 2012, PBI No. 14/2/2012, and Fair Debt Collection Practices Act? From those two problems the answer is (1) The law protection for the customer according to SEBI 14/2012 and PBI 14/2012 is still simple and not giving enough protection in general, even still giving free actions to the Debt Collector in debt collecting and (2) There is no sanction yet toward the Debt Collector according to SEBI 14/2012 and PBI 12/2012, so that Indonesia still using the regular rules, such as the KUHPerdata related with the compensation of default or the tort, and also the KUHP related with the criminal sanction in regular.

This type of research is normative, in the sense that this study was based on a literature review, a legal norms concerning the process of resolution of problem loans through Debt Collector associated with SEBI 14/2012, Regulation 14/2012 and FDCPA laws in America States. This thesis uses the Statue Approach to view the contents or substance of the legislation. Comparative approach by comparing regulation in Indonesia with U.S. regulations related to billing procedures by Debt Collector.

Keywords: : Debt Collector, Consumer/Debitur Legal Protection, SEBI 14/2012 & PBI 14/2012, Fair Debt Collection Practise Acts (USA)