

Tinjauan Kerangka Hukum Earned Wage Access sebagai Layanan Teknologi Finansial Non-Pinjaman: Sebuah Perbandingan antara Indonesia dan Negara Bagian Nevada Amerika Serikat = The Regulatory Framework of Earned Wage Access as a Non-Lending Fintech Service: A Comparative Study between Indonesia and the State of Nevada in the United States of America

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Abstrak

Penelitian ini membandingkan kerangka hukum earned wage access sebagai layanan Fintech non-pinjaman di Indonesia terhadap Peraturan Senat Nevada No. 290. Penelitian ini disusun dengan metode penelitian doktrinal untuk menganalisis perbandingan kerangka kepatuhan hukum earned wage access antara Indonesia dan Nevada, dan wawancara dengan penyedia layanan earned wage access di Indonesia. Earned wage access adalah sebuah layanan Fintech non-pinjaman untuk menarik gaji yang telah menjadi hak karyawan namun belum dibayarkan. Earned wage access di Indonesia belum diatur dengan peraturannya sendiri. Atas hal ini, layanan earned wage access di Indonesia hanya diberikan melalui model business-to-business. Kerangka hukum earned wage access di Indonesia bergantung pada kepatuhan hukumnya sebagai bisnis yang melakukan aktivitas sistem dan transaksi elektronik, penyelenggara sistem elektronik lingkup privat, aktivitas pemrosesan data, dan pemberian jasa kepada penggunaannya. Sebagai perbandingan, kerangka hukum earned wage access di Nevada bergantung pada aspek kepatuhan hukum sebagaimana diatur pada Peraturan Senat Nevada No. 290. Earned wage access merupakan layanan Fintech non-pinjaman sebagaimana penarikan gaji di muka dibatasi kurang dari gaji bulanan karyawan dan tidak adanya pengenaan bunga. Peraturan Nevada No. 290 mengatur definisi, subjek, model, struktur biaya, dan dasar earned wage access sebagai layanan Fintech non-pinjaman yang dapat diperhatikan oleh regulator di Indonesia dalam mengatur earned wage access. Untuk memastikan pelayanan yang adil dan aman, layanan earned wage access di Indonesia perlu dianalisis terhadap mekanisme regulatory sandbox Inovasi Keuangan Digital dan/atau Inovasi Teknologi Sektor Keuangan dan diatur sebagai layanan Fintech non-pinjamannya sendiri sesuai dengan elemen-elemen yang unik terhadap layanan earned wage access.

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This research compared the regulatory framework of earned wage access as a non-lending Fintech service in Indonesia to Nevada Senate Bill No. 290. This research was done with the doctrinal research approach to analyze the comparison of the regulatory compliance aspects of earned wage access between Indonesia and Nevada, and interviews with earned wage access providers in Indonesia. Earned wage access is a non-lending Fintech service to deliver earned yet unpaid income to employees. Earned wage access is currently unregulated as its own non-lending Fintech service in Indonesia despite the emergence of earned wage access providers. Due to this, provision of earned wage access in Indonesia is limited to the business-to-business model. The regulatory framework of earned wage access in Indonesia relies on its regulatory compliance as a business conducting electronic transaction and systems activity, electronic system operator in the private sector, data processing activity, and provision of services to its users. In comparison, the regulatory framework of earned wage access in Nevada relies on the regulatory compliance aspects

stipulated in Nevada Senate Bill No. 290. Earned wage access shall be deemed as a non-lending Fintech service as it restricts the amount of advance wages employees may withdraw to less than their monthly wages and incur no interest. The Nevada Senate Bill No. 290 provides defining elements of earned wage access including its definition, subjects, models, fee structures, and grounds for its status as a non-lending Fintech service which Indonesian regulators may refer to in regulating earned wage access. To ensure a fair and safe provision, earned wage access in Indonesia needs to be analyze to the regulatory sandbox mechanism provided through the Inovasi Keuangan Digital and/or Inovasi Teknologi Sektor Keuangan and be regulated as its own non-lending Fintech service in accordance to its unique elements.