

2012 Kansas Statutes

16a-6-111. (UCCC) Injunctions against unconscionable agreements and fraudulent or unconscionable conduct. (1) The administrator may bring a civil action to restrain a creditor or a person acting in his behalf from engaging in a course of

- (a) making or enforcing unconscionable terms or provisions of consumer credit transactions;
- (b) fraudulent or unconscionable conduct in inducing consumers to enter into consumer credit transactions.

(2) In an action brought pursuant to this section the court may grant relief only if the trier of the fact finds

(a) that the respondent has made unconscionable agreements or has engaged or is likely to engage in a course of fraudulent or unconscionable conduct;

(b) that the agreements or conduct of the respondent has caused or is likely to cause injury to consumers; and

(c) that the respondent has been able to cause or will be able to cause the injury primarily because the transactions involved are credit transactions.

(3) In applying this section, consideration shall be given to each of the following factors, among others:

(a) Belief by the creditor at the time consumer credit transactions are entered into that there was no reasonable probability of payment in full of the obligation by the consumer;

(b) in the case of consumer credit sales or consumer leases, knowledge by the seller or lessor at the time of the sale or lease of the inability of the buyer or lessee to receive substantial benefits from the property or services sold or leased;

(c) in the case of consumer credit sales or consumer leases, gross disparity between the price of the property or services sold or leased and the value of the property or services measured by the price at which similar property or services are readily obtainable in credit transactions by like buyers or lessees;

(d) the fact that the creditor contracted for or received separate charges for insurance with respect to consumer credit sales or consumer loans with the effect of making the sales or loans, considered as a whole, unconscionable; and

(e) the fact that the respondent has knowingly taken advantage of the inability of the consumer reasonably to protect his interests by reason of physical or mental infirmities, ignorance, illiteracy or inability to understand the language of the agreement, or similar factors.

(4) In an action brought pursuant to this section, a charge or practice expressly permitted by this act is not in itself unconscionable.

History: L. 1973, ch. 85, § 104; Jan. 1, 1974.