WEST VIRGINIA CODE: §46A-7-109

§46A-7-109. Injunctions against unconscionable agreements and fraudulent or unconscionable conduct.

(1) The Attorney General 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 sales, consumer leases or consumer loans;

(b) Fraudulent or unconscionable conduct in inducing consumers to enter into consumer credit sales, consumer leases or consumer loans; or

(c) Fraudulent or unconscionable conduct in the collection of debts arising from consumer credit sales, consumer leases or consumer loans.

(2) In an action brought pursuant to this section the court may grant relief only if it 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 have caused or are 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 or lease 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 sales, consumer leases or consumer loans are made that there was no reasonable probability of payment in full of the obligation by the debtor;

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

(c) In the case of consumer credit sales, gross disparity between the price of the property or services sold 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;

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

WV Legislature

(e) The fact that the respondent has knowingly taken advantage of the inability of the debtor 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 chapter, a charge or practice expressly permitted by this chapter is not unconscionable.

WV Legislature