

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 871

Introduced by Crawford, 45.

Read first time January 09, 2020

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Uniform Deceptive Trade Practices Act;
- 2 to amend section 87-303.01, Reissue Revised Statutes of Nebraska; to
- 3 change provisions relating to unconscionability; and to repeal the
- 4 original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 87-303.01, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 87-303.01 (1) An unconscionable act or practice by a supplier in
4 connection with a consumer transaction shall be a violation of the
5 Uniform Deceptive Trade Practices Act.

6 (2)(a) ~~(2)~~ The unconscionability of an act or practice shall be a
7 question of law for the court. In determining whether an act or practice
8 is unconscionable, the court shall consider circumstances which the
9 supplier knew or had reason to know, including, but not limited to:

10 (i) The supplier took advantage of the inability of the consumer
11 reasonably to protect the consumer's interests because of the consumer's
12 physical infirmity, ignorance, illiteracy, or inability to understand the
13 language of an agreement or any similar factor;

14 (ii) When the consumer transaction was entered into, the price
15 grossly exceeded the price at which similar property or services were
16 readily obtainable in similar transactions by similar consumers;

17 (iii) The consumer was unable to receive a material benefit from the
18 subject of the transaction;

19 (iv) When the consumer transaction was entered into, there was no
20 reasonable probability of payment of the obligation in full by the
21 consumer; or

22 (v) The transaction the supplier induced the consumer to enter into
23 was excessively one-sided in favor of the supplier.

24 (b) If it is claimed or appears to the court that an act or practice
25 may be unconscionable, the parties shall be given a reasonable
26 opportunity to present evidence as to its setting, purpose, and effect to
27 aid the court in making its determination.

28 Sec. 2. Original section 87-303.01, Reissue Revised Statutes of
29 Nebraska, is repealed.