STATE OF NEW YORK

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7906--A

2023-2024 Regular Sessions

IN ASSEMBLY

July 19, 2023
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Introduced by M. of A. L. ROSENTHAL, GLICK, LEVENBERG, SHIMSKY, SIMON,
  DARLING -- read once and referred to the Committee on Housing --
  recommitted to the Committee on Housing in accordance with Assembly
  Rule 3, sec. 2 -- committee discharged, bill amended, ordered
  reprinted as amended and recommitted to said committee

AN ACT to amend the real property law, in relation to the use of auto-
  mated decision tools to make housing decisions

  *The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:*

   1   Section 1. The real property law is amended by adding a new section
   2 227-g to read as follows:
   3   *§ 227-g. Use of automated decision tools. 1. For the purposes of this
   4 section, the following terms shall have the following meanings:*
   5   *(a) "Automated decision tool" means any computational process, derived*
   6 *from machine learning, statistical modeling, data analytics, or artifi-*
   7 *cial intelligence, that issues simplified output, including a score,*
   8 *classification, or recommendation, that is used to substantially assist*
   9 *or replace discretionary decision making for making housing decisions*
  10 *that impact natural persons. "Automated decision tool" does not include*
  11 *a tool that does not automate, support, substantially assist, or replace*
  12 *discretionary decision-making processes and that does not materially*
  13 *impact natural persons, including, but not limited to, a junk email*
  14 *filter, firewall, antivirus software, calculator, spreadsheet, database,*
  15 *data set, or other compilation of data.*
  16   *(b) "Disparate impact analysis" means an impartial evaluation*
  17 *conducted by an independent auditor. Such disparate impact analysis*
  18 *shall include, but not be limited to, testing of the extent to which use*
  19 *of an automated decision tool is likely to result in an adverse impact*
  20 *to the detriment of any group on the basis of sex, race, ethnicity, or*
  21 *other protected class under this article. A disparate impact analysis*

1 shall differentiate between applicants who were selected and applicants
2 who were not selected by the tool.
3   (c) "Housing decision" means to screen applicants for housing.
4   2. It shall be unlawful for a landlord to implement or use an auto-
5 mated decision tool that fails to comply with the following provisions:
6   (a) No less than annually, a disparate impact analysis shall be
7 conducted to assess the actual impact of any automated decision tool
8 used by any landlord to select applicants for housing within the state.
9 Such disparate impact analysis shall be provided to the landlord.
10   (b) A summary of the most recent disparate impact analysis of such
11 tool as well as the distribution date of the tool to which the analysis
12 applies shall be made publicly available on the website of the landlord
13 prior to the implementation or use of such tool.   Such summary shall
14 also be made accessible through any listing for housing on a digital
15 platform for which the landlord intends to use an automated decision
16 tool to screen applicants for housing.
17   3. (a) Any landlord that uses an automated decision tool to screen
18 applicants for housing shall notify each such applicant of the follow-
19 ing:
20   (i) That an automated decision tool will be used in connection with
21 the assessment or evaluation of such applicant;
22   (ii) The characteristics that such automated decision tool will use in
23 the assessment of such applicant;
24   (iii) Information about the type of data collected for such automated
25 decision tool, the source of such data, and the landlord's data
26 retention policy; and
27   (iv) If an application for housing is denied through use of the auto-
28 mated decision tool, the reason for such denial.
29   (b) The notice required by paragraph (a) of this subdivision shall be
30 made no less than twenty-four hours before the use of such automated
31 decision tool and shall allow such applicant to request an alternative
32 selection process or accommodation.
33   4. The attorney general may initiate an investigation if a preponder-
34 ance of the evidence, including the summary of the most recent disparate
35 impact analysis establishes a suspicion of a violation. The attorney
36 general may also initiate in any court of competent jurisdiction any
37 action or proceeding that may be appropriate or necessary for correction
38 of any violation issued pursuant to this section, including mandating
39 compliance with the provisions of this section or such other relief as
40 may be appropriate.
41   § 2. This act shall take effect immediately.