STATE OF NEW YORK

7906--A

2023-2024 Regular Sessions

IN ASSEMBLY

July 19, 2023

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 automated decision tools to make housing decisions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The real property law is amended by adding a new section 227-q to read as follows:

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§ 227-g. Use of automated decision tools. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Automated decision tool" means any computational process, derived from machine learning, statistical modeling, data analytics, or artificial intelligence, that issues simplified output, including a score, classification, or recommendation, that is used to substantially assist or replace discretionary decision making for making housing decisions that impact natural persons. "Automated decision tool" does not include 10 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, data set, or other compilation of data.

(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 other protected class under this article. A disparate impact analysis

EXPLANATION -- Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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shall differentiate between applicants who were selected and applicants who were not selected by the tool.

- (c) "Housing decision" means to screen applicants for housing.
- 2. It shall be unlawful for a landlord to implement or use an automated decision tool that fails to comply with the following provisions:
- (a) No less than annually, a disparate impact analysis shall be conducted to assess the actual impact of any automated decision tool used by any landlord to select applicants for housing within the state. 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 prior to the implementation or use of such tool. Such summary shall 13 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 tool to screen applicants for housing. 16
- 17 3. (a) Any landlord that uses an automated decision tool to screen applicants for housing shall notify each such applicant of the follow-18 19
- (i) That an automated decision tool will be used in connection with 20 21 the assessment or evaluation of such applicant;
 - (ii) The characteristics that such automated decision tool will use in the assessment of such applicant;
 - (iii) Information about the type of data collected for such automated decision tool, the source of such data, and the landlord's data retention policy; and
- (iv) If an application for housing is denied through use of the auto-28 mated decision tool, the reason for such denial.
- (b) The notice required by paragraph (a) of this subdivision shall be 29 30 made no less than twenty-four hours before the use of such automated decision tool and shall allow such applicant to request an alternative 31 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 general may also initiate in any court of competent jurisdiction any 36 action or proceeding that may be appropriate or necessary for correction 37 of any violation issued pursuant to this section, including mandating 38 compliance with the provisions of this section or such other relief as 39 40 may be appropriate.
- § 2. This act shall take effect immediately. 41