

# STATE OF NEW YORK

9473

## IN ASSEMBLY

March 14, 2024

Introduced by M. of A. BICHOTTE HERMELYN -- read once and referred to the Committee on Housing

AN ACT to amend the real property law, in relation to prohibiting the use of an algorithmic device by a landlord for the purpose of determining the amount of rent to charge a residential tenant

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

1 Section 1. Legislative declaration. The legislature finds that the use  
2 of algorithmic devices has been the subject of lawsuits that allege such  
3 products pose a heightened risk of anticompetitive conduct, price  
4 fixing, and collusion, all of which allegedly result in higher rents for  
5 residential tenants, and allegedly poses the risk that landlords will  
6 outsource pricing decisions, which the legislature determines should  
7 always be made by the landlord.

8 Therefore, the legislature declares that, with certain exceptions, the  
9 use of an algorithmic device by a landlord to set the amount of a resi-  
10 dential tenant's rent is prohibited.

11 § 2. The real property law is amended by adding a new section 222-a to  
12 read as follows:

13 § 222-a. Determination of rent amount; use of an algorithmic device in  
14 setting rent amount prohibited. 1. In setting the amount of rent to be  
15 charged to a tenant for the occupancy of a residential premises, includ-  
16 ing determining any change in the amount of rent to be charged for the  
17 renewed occupancy of a residential premises, a landlord shall not  
18 employ, use, or rely upon, or cause another person to employ, use, or  
19 rely upon, an algorithmic device that uses, incorporates, or was trained  
20 with nonpublic competitor data.

21 2. A violation of subdivision one of this section is a deceptive act  
22 or practice as provided in section three hundred forty-nine of the  
23 general business law, and a person who commits a violation is subject to  
24 all penalties and remedies described in article twenty-two-A of the  
25 general business law.

26 3. As used in this section:

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

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1 a. "algorithmic device" means a device that uses one or more algo-  
2 rithms to perform calculations of data, including data concerning local  
3 or statewide rent amounts being charged to tenants by landlords, for the  
4 purpose of advising a landlord concerning the amount of rent that the  
5 landlord may consider charging a tenant. "Algorithmic device":

6 (i) includes a product that incorporates an algorithmic device; and

7 (ii) does not include:

8 (A) any report published periodically, but no more frequently than  
9 monthly, by a trade association that receives renter data and publishes  
10 it in an aggregated and anonymous manner; or

11 (B) a product used for the purpose of establishing rent or income  
12 limits in accordance with the affordable housing program guidelines of a  
13 local government, the state, the federal government, or other political  
14 subdivision.

15 b. "Nonpublic competitor data" means information that is not widely  
16 available or easily accessible to the public, including information  
17 about actual rent prices, occupancy rates, lease start and end dates,  
18 and similar data, regardless of whether the data are attributable to a  
19 specific competitor or anonymized, and that is derived from or otherwise  
20 provided by another person that competes in the same market as a person,  
21 or a related market.

22 c. "Rent" means the total amount of rent, including concessions and  
23 fees, that a residential tenant is required to pay pursuant to a rental  
24 agreement.

25 § 3. This act shall take effect on the ninetieth day after it shall  
26 have become a law and shall apply to a landlord's calculation of the  
27 amount of rent that the landlord charges for the occupancy of a residen-  
28 tial premises pursuant to any rental agreement that is executed on or  
29 after the effective date of this act.