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:

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

Therefore, the legislature declares that, with certain exceptions, the use of an algorithmic device by a landlord to set the amount of a residential tenant's rent is prohibited.

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

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

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

3. As used in this section:

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

LBD14800-01-4

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

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

(ii) does not include:

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

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

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

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

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