

STATE OF NEW YORK

773--A

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. ROSENTHAL -- read once and referred to the Committee on Banks -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the banking law, in relation to the use of automated lending decision-making tools to make lending decisions

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

1 Section 1. The banking law is amended by adding a new section 103-a to
2 read as follows:

3 § 103-a. Use of automated lending decision-making tools to make lend-
4 ing decisions. 1. For the purposes of this section, the following terms
5 shall have the following meanings:

6 (a) "Automated lending decision-making tool" means any software that
7 uses algorithms, computational models, or artificial intelligence tech-
8 niques, or a combination thereof, to materially automate or replace
9 human decision-making regarding lending decisions that impact natural
10 persons. "Automated lending decision-making tool" shall not include any
11 software used primarily for basic computerized processes, such as calcu-
12 lators, spellcheck tools, autocorrect functions, spreadsheets, electron-
13 ic communications, or any tool that relates only to internal management
14 affairs such as ordering office supplies or processing payments, and
15 that do not materially impact any lending decisions relating to natural
16 persons.

17 (b) "Lending decision" means any determination made by a covered enti-
18 ty or its agent, whether automated, manual or a combination thereof,
19 that affects the approval, denial, offer, counteroffer, or modification
20 of the terms or conditions of a loan or credit application, including
21 decisions regarding creditworthiness, loan amounts, interest rates,
22 collateral requirements, repayment, or any other material term, and any
23 determination that considers any factor that results or may result in

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

LBD02503-02-5

1 "adverse action" as such term is defined in the federal Fair Credit
2 Reporting Act 15 U.S.C. 1681a(k).

3 (c) "Covered entity" means any banking organization, foreign banking
4 corporation licensed by the superintendent to transact business in this
5 state pursuant to article five of this chapter, interstate branch
6 authorized by the superintendent to transact business in this state
7 pursuant to article five-C of this chapter, and licensed lender. Covered
8 entity shall not include any national bank, federal savings bank, feder-
9 al savings and loan association, federal credit union, federal trust
10 company or foreign banking corporation organized under the laws of the
11 United States.

12 (d) "Material change" means any modification to an automated lending
13 decision-making tool which directly impacts the tool's outputs.

14 2. No less than annually, each covered entity that uses automated
15 lending decision-making tools shall conduct an impact assessment
16 substantially completed and bearing the signature of one or more indi-
17 viduals responsible for meaningful human review for the lawful applica-
18 tion and use of such automated lending decision-making tools. An impact
19 assessment shall be conducted prior to any material change to any auto-
20 mated lending decision-making tool that may change the outcome or effect
21 of such tool. An impact assessment final report summarizing the conclu-
22 sions of the initial impact assessment shall be posted on such covered
23 entity's website prior to the implementation and use of such automated
24 lending decision-making tool and updated on the entity's website follow-
25 ing each subsequent assessment. Such impact assessment final report
26 shall include:

27 (a) a description of the objectives of the automated lending deci-
28 sion-making tool;

29 (b) an evaluation of the ability of the automated lending decision-
30 making tool to achieve its stated objectives;

31 (c) a description and evaluation of the objectives and development of
32 the automated lending decision-making tool including:

33 (i) a summary of the underlying algorithms, computational modes, and
34 artificial intelligence tools that are used within the automated lend-
35 ing decision-making tool; and

36 (ii) the design and training data used to develop the automated lend-
37 ing decision-making tool process;

38 (d) testing for:

39 (i) accuracy, fairness, bias and discrimination, and an assessment of
40 whether the use of the automated lending decision-making tool produces
41 discriminatory results on the basis of a consumer's or a class of
42 consumers' actual or perceived race, color, ethnicity, religion,
43 national origin, sex, gender, gender identity, sexual orientation, fami-
44 lial status, biometric information, lawful source of income, age, or
45 disability and, outlines mitigations for any identified performance
46 differences in outcomes across relevant groups impacted by such use;

47 (ii) any cybersecurity vulnerabilities and privacy risks resulting
48 from the deployment and use of the automated lending decision-making
49 tool, and the development or existence of safeguards to mitigate the
50 risks;

51 (iii) any public health or safety risks resulting from the deployment
52 and use of the automated lending decision-making tool; and

53 (iv) any reasonably foreseeable misuse of the automated lending deci-
54 sion-making tool and the development or existence of safeguards
55 against such misuse;

1 (e) the extent to which the deployment and use of the automated lending
2 decision-making tool requires input of sensitive and personal
3 data, how that data is used and stored, and any control users may
4 have over their data; and

5 (f) the notification mechanism or procedure, if any, by which individ-
6 uals impacted by the utilization of the automated lending decision-mak-
7 ing tool may be notified of the use of such automated lending decision-
8 making tool and of the individual's personal data, and informed of
9 their rights and options relating to such use.

10 3. In addition to the powers conferred to the superintendent in subdi-
11 vision six of this section, a covered entity shall retain the full
12 impact assessment and summary for a period of seven years and shall,
13 upon notice by the superintendent, provide such full assessment and
14 summary to the department within seven days.

15 4. Notwithstanding the provisions of this article or any other law, if
16 an impact assessment finds that the automated lending decision-making
17 tool produces discriminatory or biased outcomes, such covered entity
18 shall, within thirty days of such findings, report such findings to the
19 department. Upon such report being received by the department, the
20 department shall direct such covered entity to cease any utilization,
21 application, or function of such automated lending decision-making tool,
22 and of any information produced using such tool.

23 5. (a) Any covered entity that uses an automated lending decision-mak-
24 ing tool to screen applicants for a loan shall notify each such appli-
25 cant of the following:

26 (i) That an automated lending decision-making tool will be used in
27 connection with the assessment or evaluation of such applicant;

28 (ii) The criteria that such automated lending decision-making tool
29 will use in the assessment of such applicant;

30 (iii) Information about the type of data collected for such automated
31 lending decision-making tool, the source of such data, and the covered
32 entity's data retention policy; and

33 (iv) If an application for a loan is denied through use of the auto-
34 mated lending decision-making tool, to the extent practicable, the
35 reason for such denial.

36 (b) The notice required by paragraph (a), with the exception of the
37 information required in subparagraph (iv) of such paragraph, of this
38 subdivision shall be made no less than twenty-four hours before the use
39 of such automated lending decision-making tool. The notice required by
40 subparagraph (iv) of such paragraph (a) shall be made within twenty-four
41 hours after such denial.

42 (c) If an application for a loan is denied based on personal informa-
43 tion that is incorrect, the applicant, upon receipt of the notice
44 required by subparagraph (iv) of paragraph (a) of this subdivision,
45 shall have thirty days to correct such information and appeal such
46 denial.

47 6. The superintendent shall have the power to make such investigations
48 as the superintendent deems necessary to determine whether any covered
49 entity has violated any of the provisions of this section. To the extent
50 necessary therefor, the superintendent may require the attendance of and
51 examine any person under oath, and shall have the power to compel the
52 production of all relevant books, records, accounts, and documents. The
53 superintendent shall have the power to make such examinations of the
54 books, records, accounts and documents used in the business of any
55 covered entity as the superintendent deems necessary to determine wheth-
56 er any such covered entity has violated any of the provisions of this

1 section, or to secure information lawfully required by the superinten-
2 dent.

3 7. Notwithstanding the provisions of subdivision two of this section,
4 the superintendent may, upon a finding that a covered entity has
5 deployed an automated lending decision-making tool which produced
6 discriminatory or biased outcomes, require, in accordance with the rules
7 and regulations promulgated by the superintendent, (a) additional annual
8 reports, (b) annual reports with additional information, (c) a combina-
9 tion of paragraphs (a) and (b) of this subdivision, and/or (d) that such
10 covered entity provide any and all additional reports to the department
11 directly.

12 8. The provisions of this section shall be severable, and if any
13 phrase, clause, sentence, or provision is declared to be invalid, or is
14 preempted by federal law or regulation, the validity of the remainder of
15 this section shall not be affected thereby. If any provision of this
16 section, or its application to any person or circumstance, is held to be
17 invalid or preempted by federal law, the remainder of this section and
18 its application to other persons or circumstances shall not be affected
19 and shall continue in full force and effect to the maximum extent
20 permitted by law.

21 § 2. This act shall take effect on the ninetieth day after it shall
22 have become a law.