

STATE OF NEW YORK

773--C

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

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

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

LBD02503-06-6

1 that affects the approval, denial, offer, counteroffer, or modification
2 of the terms or conditions of a loan or credit application, including
3 decisions regarding creditworthiness, loan amounts, interest rates,
4 collateral requirements, repayment, or any other material term, and any
5 determination that considers any factor that results or may result in
6 "adverse action" as such term is defined in the federal Fair Credit
7 Reporting Act 15 U.S.C. 1681a(k).

8 (c) "Covered entity" means any banking organization, foreign banking
9 corporation licensed by the superintendent to transact business in this
10 state pursuant to article five of this chapter, interstate branch
11 authorized by the superintendent to transact business in this state
12 pursuant to article five-C of this chapter, and licensed lenders pursu-
13 ant to article nine of this chapter. Covered entity shall not include
14 any national bank, federal savings bank, federal savings and loan asso-
15 ciation, federal credit union, federal trust company or foreign banking
16 corporation organized under the laws of the United States.

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

19 2. No less than annually, each covered entity that uses automated
20 lending decision-making tools shall work with an independent third party
21 to conduct an impact assessment substantially completed and bearing the
22 signature of one or more individuals responsible for meaningful human
23 review for the lawful application and use of such automated lending
24 decision-making tools. An impact assessment shall be conducted prior to
25 any material change to any automated lending decision-making tool that
26 may change the outcome or effect of such tool. An impact assessment
27 final report summarizing the conclusions of the initial impact assess-
28 ment shall be posted on such covered entity's website prior to the
29 implementation and use of such automated lending decision-making tool
30 and updated on the entity's website following each subsequent assess-
31 ment. Such impact assessment final report shall include:

32 (a) a description of the objectives of the automated lending deci-
33 sion-making tool;

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

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

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

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

43 (d) testing for:

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

52 (ii) any cybersecurity vulnerabilities and privacy risks resulting
53 from the deployment and use of the automated lending decision-making
54 tool, and the development or existence of safeguards to mitigate the
55 risks;

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

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

6 (e) the extent to which the deployment and use of the automated lend-
7 ing decision-making tool requires input of sensitive and personal
8 data, how that data is used and stored, and any control users may
9 have over their data; and

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

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

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

28 5. (a) Any covered entity that uses an automated lending decision-mak-
29 ing tool to screen applicants for a loan shall notify each such appli-
30 cant of the following in a clearly visible plain-language summary
31 requiring distinct affirmative acknowledgement from other terms and
32 agreements:

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

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

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

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

43 (b) The notice required by paragraph (a), with the exception of the
44 information required in subparagraph (iv) of such paragraph, of this
45 subdivision shall be made no less than twenty-four hours before the use
46 of such automated lending decision-making tool. The notice required by
47 subparagraph (iv) of such paragraph (a) shall be made within twenty-four
48 hours after such denial.

49 (c) If an application for a loan is denied based on personal informa-
50 tion that is incorrect, the applicant, upon receipt of the notice
51 required by subparagraph (iv) of paragraph (a) of this subdivision,
52 shall have thirty days to correct such information and appeal such
53 denial. Upon receipt of the appeal request, the lender shall have thir-
54 ty days to respond to the applicant's appeal request.

55 6. The superintendent shall have the power to make such investigations
56 as the superintendent deems necessary to determine whether any covered

1 entity has violated any of the provisions of this section. To the extent
2 necessary therefor, the superintendent may require the attendance of and
3 examine any person under oath, and shall have the power to compel the
4 production of all relevant books, records, accounts, and documents. The
5 superintendent shall have the power to make such examinations of the
6 books, records, accounts and documents used in the business of any
7 covered entity as the superintendent deems necessary to determine wheth-
8 er any such covered entity has violated any of the provisions of this
9 section, or to secure information lawfully required by the superinten-
10 dent.

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

20 8. The provisions of this section shall be severable, and if any
21 phrase, clause, sentence, or provision is declared to be invalid, or is
22 preempted by federal law or regulation, the validity of the remainder of
23 this section shall not be affected thereby. If any provision of this
24 section, or its application to any person or circumstance, is held to be
25 invalid or preempted by federal law, the remainder of this section and
26 its application to other persons or circumstances shall not be affected
27 and shall continue in full force and effect to the maximum extent
28 permitted by law.

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