STATE OF NEW YORK

3930

2025-2026 Regular Sessions

IN ASSEMBLY

January 30, 2025

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

AN ACT to amend the real property law, the general business law and the banking law, in relation to regulating the use of artificial intelligence in aiding decisions on rental housing and loans; and providing for the repeal of certain provisions upon expiration thereof

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-g to read as follows:

§ 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 a tool that does not automate, support, substantially assist, or replace discretionary decision-making processes and that does not materially impact natural persons, including, but not limited to, a junk email filter, firewall, antivirus software, calculator, spreadsheet, database, data set, or other compilation of data.

(b) "Disparate impact analysis" means an impartial evaluation conducted by an independent auditor. Such disparate impact analysis shall include, but not be limited to, testing of the extent to which use of an automated decision tool is likely to result in an adverse impact to the detriment of any group on the basis of sex, race, ethnicity, or other protected class under this article. A disparate impact analysis shall differentiate between applicants who were selected and applicants who were not selected by the tool.

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

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(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.

(b) A summary of the most recent disparate impact analysis of such tool as well as the distribution date of the tool to which the analysis applies shall be made publicly available on the website of the landlord prior to the implementation or use of such tool. Such summary shall also be made accessible through any listing for housing on a digital platform for which the landlord intends to use an automated decision tool to screen applicants for housing.

3. (a) Any landlord that uses an automated decision tool to screen applicants for housing shall notify each such applicant of the following:

(i) That an automated decision tool will be used in connection with 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 automated decision tool, the reason for such denial.

(b) The notice required by paragraph (a) of this subdivision shall be made no less than twenty-four hours before the use of such automated decision tool and shall allow such applicant to request an alternative selection process or accommodation.

4. The attorney general may initiate an investigation if a preponderance of the evidence, including the summary of the most recent disparate impact analysis establishes a suspicion of a violation. The attorney general may also initiate in any court of competent jurisdiction any action or proceeding that may be appropriate or necessary for correction of any violation issued pursuant to this section, including mandating compliance with the provisions of this section or such other relief as may be appropriate.

§ 2. The general business law is amended by adding a new section 344 to read as follows:

§ 344. Use of pricing algorithmic in setting rent amount prohibited. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Pricing algorithm" shall mean any computational process, including a computational process derived from machine learning or other artificial intelligence techniques, that processes data to recommend or set a price or commercial term that is in or affecting interstate or foreign commerce.

(b) "Coordinator" shall mean any operator of a software or data analytics service that performs a coordinating function for any landlord, including a landlord performing a coordinating function for such landlord's own benefit.

(c) "Nonpublic competitor data":

(i) shall mean nonpublic data that is derived from or otherwise provided by another person that competes in the same market as a person, or a related market; and

(ii) does not include information distributed, reported, or otherwise communicated in a way that does not reveal any underlying data from a competitor, such as narrative industry reports, news reports, business commentaries, or generalized industry survey results.

(d) "Nonpublic data" shall mean 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 such data is attributable to a specific competitor or anonymized.

2. (a) 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 pricing that uses, incorporates, or was trained with nonpublic competitor data.

(b) A coordinator shall not facilitate an agreement among landlords to not compete regarding the renting of residential premises.

3. (a) A landlord shall not share a tenant's personal data with any third party without such tenant's written consent.

(b) A landlord shall disclose to each tenant:

(i) the categories of personal data processed by the landlord and by any processor who processes personal data on behalf of such landlord;

(ii) the sources from which personal data is collected;

(iii) the purposes for processing personal data;

(iv) the landlord's retention period for each category of personal data that such landlord processes or which is processed on such landlord's behalf, or if that is not possible, the criteria used to determine such retention period; and

(v) the identity of each third party to whom the landlord disclosed, shared, transferred, or sold personal data, and for each identified third party:

(A) the categories of personal data being shared, disclosed, transferred, or sold to the third party;

(B) the purposes for which personal data is being shared, disclosed, transferred, or sold to the third party;

(C) the third party's retention period for each category of personal data processed by such third party or processed on such third party's behalf, or if that is not possible, the criteria used to determine such retention period; and

(D) whether the third party uses the personal data for targeted advertising.

4. In addition to any action brought by the attorney general under this article, a tenant injured by a violation of this section may bring an action to recover damages. A court may also award attorneys' fees to a prevailing plaintiff tenant.

§ 3. The banking law is amended by adding a new section 103-a to read as follows:

§ 103-a. Use of automated decision tools to make lending decisions. 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 lending decisions that impact natural persons. "Automated decision tool" does not include

a tool that does not automate, support, substantially assist, or replace discretionary decision-making processes and that does not materially impact natural persons, including, but not limited to, a junk email filter, firewall, antivirus software, calculator, spreadsheet, database, data set, or other compilation of data.

(b) "Disparate impact analysis" means an impartial evaluation conducted by an independent auditor. Such disparate impact analysis shall include, but not be limited to, testing of the extent to which use of an automated decision tool is likely to result in an adverse impact to the detriment of any group on the basis of sex, race, ethnicity, or other protected class under this article. A disparate impact analysis shall differentiate between applicants who were approved and applicants who were not approved by the tool.

(c) "Lending decision" means to screen applicants for a loan.

2. No less than annually, each bank that uses automated decision tools to make lending decisions shall:

(a) conduct a disparate impact analysis to assess the actual impact of any automated decision tool used by any bank to make lending decisions within the state; and

(b) submit a summary of the most recent disparate impact analysis of such tool as well as the distribution date of the tool to which the analysis applies to the attorney general's office.

3. (a) Any bank that uses an automated decision tool to screen applicants for a loan shall notify each such applicant of the following:

(i) that an automated decision tool will be used in connection with 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 bank's data retention policy; and

(iv) if an application for a loan is denied through use of the automated decision tool, the reason for such denial.

(b) The notice required by paragraph (a) of this subdivision shall be made no less than twenty-four hours before the use of such automated decision tool and shall allow such applicant to opt out of or consent to such use and/or retention of such applicant's personal information by the bank.

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

4. The attorney general may initiate an investigation if a preponderance of the evidence, including the summary of the most recent disparate impact analysis required pursuant to paragraph (b) of subdivision two of this section, establishes a suspicion of a violation. The attorney general may also initiate in any court of competent jurisdiction any action or proceeding that may be appropriate or necessary for correction of any violation issued pursuant to this section, including mandating compliance with the provisions of this section or such other relief as may be appropriate.

§ 4. 1. The division of housing and community renewal, in conjunction with the department of financial services and the division of human rights shall conduct a study on the impact of artificial intelligence and machine learning on housing discrimination and how such artificial

intelligence and machine learning may further redlining. Such study shall be completed within one year of the effective date of this act.

2. The division of housing and community renewal shall submit a report to the governor and the legislature on its findings and recommendations for legislative action no later than ninety days after the completion of the study.

§ 5. This act shall take effect immediately; provided, however, that the provisions of section four of this act shall expire and be deemed repealed after transmission of the report of the findings and recommendations of the study to the governor and the legislature, as provided in subdivision 2 of section four of this act. Provided, further, that the commissioner of the division of housing and community renewal shall notify the legislative bill drafting commission upon the transmission of the report of the findings and recommendations of the study, as provided in subdivision 2 of section four of this act, in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.