#FightforHousingJustice:
What You Need to Know About HUD's Proposed Disparate Impact Rule & Algorithmic Models

What should I know?

Algorithmic models are used in all manner of housing-related decision-making, including for rental admission screening, insurance, mortgage lending, and more. These models are often provided by third-party consumer reporting agencies. Unfortunately, algorithms can be used as a tool of housing discrimination. Multiple studies have demonstrated that algorithms result in African Americans and Latinos being denied credit, employment, and housing at disproportionate rates.

Instead of tackling this difficult and complex issue, HUD's proposed disparate impact rule creates a vague standard with many undefined terms that will shield housing providers from disparate impact liability whenever they use an algorithm to make a housing decision. HUD's proposed rule would provide persons or companies a defense to housing discrimination disparate impact claims if they show that the policy being challenged is based on a "model…such as a risk assessment algorithm."

If finally adopted, this proposal **would catastrophically undermine the Fair Housing Act** because, among other things:

Even when the use of such models produces discriminatory effects within a provider's market, **the mere fact that the provider obtained the model from a third party** would render the Fair Housing Act inapplicable.

The inputs and factors that contribute to such models tend to be **carefully-guarded secrets and unavailable to consumers, advocates, or others**. This **lack of transparency** prevents discrimination victims and advocates from even evaluating whether a model might fail to meet the proposed new standards.

The rule does not define "model" and **it is unclear how far this term will extend**. The term likely encompasses technology that automates decisions traditionally made by human beings, which would shield discriminatory practices from Fair Housing Act challenges simply because computers are involved.

Making the Fair Housing Act inapplicable to models created by third parties (such as tenant-screening companies or credit reporting bureaus) or endorsed by third-party reviewers will **incentivize more companies to market such models** and more housing providers to use them. This will deepen and broaden the scope of any discriminatory effects that such models produce.

The lack of Fair Housing Act liability will **deter the providers of such models from detecting, avoiding, or minimizing any housing discriminatory effects**.

What can I do?

Fight back! Tell HUD that you **oppose** this proposed rule by submitting a comment at by **October 18, 2019**. Find out more at www.fightforhousingjustice.org.