# STATE OF NEW YORK

4750--A

Cal. No. 172

2023-2024 Regular Sessions

# IN ASSEMBLY

February 23, 2023

Introduced by M. of A. EPSTEIN, BURDICK, DICKENS, GALLAGHER, KELLES, GLICK -- read once and referred to the Committee on Housing -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the real property law and the general obligations law, in relation to prohibiting residential landlords from charging tenants a fee for a dishonored rent check in excess of the actual costs or fees incurred by such landlord as a result thereof

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

Section 1. Section 238-a of real property law is amended by adding a new subdivision 2-a to read as follows:

**2-a. (a) No landlord, lessor, sub-lessor or grantor shall demand any payment, fee, or charge from a tenant for the delivery of a check, draft or like instrument that was given in payment for rent and subsequently dishonored by the tenant's financial institution for insufficient funds except as provided in paragraph (b) of this subdivision.**

**(b) Notwithstanding any contrary provision herein, a landlord, lessor, sub-lessor or grantor may demand any payment, fee, or charge from a tenant for the delivery of a dishonored check only if such payment, fee, or charge was provided for in the lease or contract between landlord, lessor, sub-lessor or grantor and the tenant; provided, however, that such payment, fee, or charge shall not exceed the actual costs, charges or fees incurred by landlord, lessor, sub-lessor or grantor for the return of such dishonored check or the amount set forth in subdivision three of section 5-328 of the general obligations law, whichever is less.**

**(c) As used in this subdivision, "dishonored check" shall have the same meaning as such term is defined in section 5-328 of the general obligations law.**

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

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§ 2. Subdivision 3 of section 5-328 of the general obligations law, as added by chapter 529 of the laws of 1995, is amended to read as follows:

3. **(a)** Notwithstanding any other provision of law, any person to whom a check, draft or like instrument, other than a money order, bank cashier's check or certified check, is tendered for any transaction, other than a consumer transaction, may, if such instrument is dishonored charge or collect from the maker or drawer the amount of twenty dollars for the return of such unpaid or dishonored instrument.

**(b) Notwithstanding any other provision of this subdivision, a landlord, lessor, sub-lessor or grantor to whom a check, draft or like instrument, other than a money order, bank cashier's check or certified check, is tendered for payment of rent, may if such instrument is dishonored charge or collect from the maker or drawer the amount of actual costs, charges or fees incurred by such landlord, lessor, sub-lessor or grantor for the return of such dishonored check or the amount set forth in paragraph (a) of this subdivision, whichever is less, provided that such dishonored check charge was contracted for in the lease agreement between the tenant and landlord, lessor, sub-lessor or grantor in accordance with the requirements of subdivision two-a of section two hundred thirty-eight-a of the real property law.**

§ 3. This act shall take effect immediately and shall apply to actions and proceedings commenced on and after such effective date.