§ 238-a. Limitation on fees. In relation to a residential dwelling unit:

1. (a) Except in instances where statutes or regulations provide for a payment, fee or charge, no landlord, lessor, sub-lessor or grantor may demand any payment, fee, or charge for the processing, review or acceptance of an application, or demand any other payment, fee or charge before or at the beginning of the tenancy, except background checks and credit checks as provided by paragraph (b) of this subdivision, provided that this subdivision shall not apply to entrance fees charged by continuing care retirement communities licensed pursuant to article forty-six or forty-six-A of the public health law, assisted living providers licensed pursuant to article forty-six-B of the public health law, adult care facilities licensed pursuant to article seven of the social services law, senior residential communities that have submitted an offering plan to the attorney general, or not-for-profit independent retirement communities that offer personal emergency response, housekeeping, transportation and meals to their residents. Nothing in this paragraph shall prohibit a cooperative housing corporation, other than a cooperative housing corporation subject to the provisions of article two, article four, article five or article eleven of the private housing finance law, from demanding from a prospective tenant any payment, fee or charge which is necessary to compensate a managing agent and/or transfer agent for the processing, review or acceptance of such prospective tenant's application where such prospective tenant would become a dwelling unit owner or shareholder of such cooperative housing corporation.

(b) A landlord, lessor, sub-lessor or grantor may charge a fee or fees to reimburse costs associated with conducting a background check and credit check, provided the cumulative fee or fees for such checks is no more than the actual cost of the background check and credit check or twenty dollars, whichever is less, and the landlord, lessor, sub-lessor or grantor shall waive the fee or fees if the potential tenant provides a copy of a background check or credit check conducted within the past thirty days. The landlord, lessor, sub-lessor or grantor may not collect the fee or fees unless the landlord, lessor, sub-lessor or grantor provides the potential tenant with a copy of the background check or

credit check and the receipt or invoice from the entity conducting the background check or credit check. Notwithstanding the provisions of this paragraph, a cooperative housing corporation shall be permitted to charge a fee or fees to reimburse costs associated with conducting a background check and credit check in excess of twenty dollars, where the potential tenant would become a dwelling unit owner or shareholder of such cooperative housing corporation, provided the cumulative fee or fees for such checks is no more than the actual cost of such background check and/or credit check. Further, with regard to a cooperative housing corporation subject to the provisions of article two, article four, article five or article eleven of the private housing finance law, all such fees must be reasonable and approved by the agency supervising such cooperative housing corporation.

2. No landlord, lessor, sub-lessor or grantor may demand any payment, fee, or charge for the late payment of rent unless the payment of rent has not been made within five days of the date it was due, and such payment, fee, or charge shall not exceed fifty dollars or five percent of the monthly rent, whichever is less; provided a cooperative housing corporation, other than a cooperative housing corporation subject to the provisions of article two, article four, article five or article eleven of the private housing finance law, shall be permitted to charge a tenant that is a dwelling unit owner or shareholder of such cooperative housing corporation a fee of up to eight percent of the monthly maintenance fee for the late payment of the monthly maintenance fee if the proprietary lease or occupancy agreement provides for such fee.

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:

(i) 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 greater; and

(ii) if the payment, fee or charge exceeds the amount set forth in subdivision three of section 5-328 of the general obligations law, the landlord, lessor, sub-lessor or grantor shall provide to the tenant upon request evidence substantiating the equivalence between the payment, fee or charge and the amount of actual costs, charges or fees incurred for the return of the dishonored check.

(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.

(d) The provisions of this subdivision shall not apply to a shareholder of a cooperative housing corporation, provided, however, that the provisions of this subdivision shall apply with respect to any tenant or subtenant of such a shareholder.

3. Any provision of a lease or contract waiving or limiting the provisions of this section shall be void as against public policy.