

STATE OF NEW YORK

3138

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

Introduced by M. of A. KIM, STECK, SOLAGES, QUART, DICKENS -- read once and referred to the Committee on Banks

AN ACT to amend the state finance law, the financial services law and the New York state urban development corporation act, in relation to establishing the empire state inclusive value ledger establishment and administration act

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

1 Section 1. This act shall be known and may be cited as the "empire
2 state inclusive value ledger establishment and administration act".
3 § 2. Legislative intent. Many New Yorkers, be they individuals or
4 small businesses, lack access to retail banking services that can enable
5 them to accumulate, store, and transfer value in simple commercial,
6 financial, testamentary and gift transactions on non-exploitative terms.
7 Many New Yorkers also lack access to basic retail payment services that
8 can enable them to exchange value for value in retail and other trans-
9 actions on non-exploitative terms. The aforementioned failures of access
10 operate not only to marginalize and exclude large numbers of New Yorkers
11 from ordinary interactions of the kind that underwrite full membership
12 in society, but also to impede or obstruct multiple commercial and other
13 transactions that determine the size and scope of the state's economy
14 and the prosperity of its residents. Since a money or currency is what
15 'counts' in a system of value accounting, storage, and payment, the
16 aforementioned failures of access also operate to limit the state and
17 its localities' aggregate currency supplies, which in turn prevents the
18 remuneration of many value-adding activities, including care of the
19 needy, maintenance of local infrastructures, and provision of other
20 public goods. As a result, the failures of access discourage such valu-
21 able activities from being undertaken at all.
22 A system of individual digital wallets or payment accounts, linked to
23 a single master account that enables payments to move between such indi-

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

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1 vidual wallets or payment accounts, is now easy to construct and admin-
2 ister with the use of secure digital payment technologies. The state of
3 New York annually disburses more than fifty-five billion dollars in the
4 form of tax credits, procurement payments, pension payouts, and other
5 program disbursals, all of which can readily be disbursed via a system
6 of individual wallets or accounts linked to a master account. The state
7 of New York also receives more than fifty-five billion dollars annually
8 in the form of service payments, tax monies, licensing fees, civil fines
9 and other remittances, all of which can be readily paid into a master
10 account from individual wallets or accounts of the kind just described.

11 A system of individual digital wallets or payment accounts linked to a
12 master account could accordingly function as a state-provided and admin-
13 istered payment infrastructure, in and through which value could be
14 accumulated, stored, grown and exchanged in 'real-time,' with no need
15 for fees or other forms of exploitative value extraction, thereby assur-
16 ing that all New Yorkers are (a) 'banked,' (b) able to create, receive
17 and grow wealth, and (c) empowered to participate fully in a growing
18 state economy suffering no shortage of currency or forgoing of commerce.

19 The state of New York now has the highest number of COVID-19 cases in
20 the nation, while the novel Coronavirus outbreak that is spreading this
21 grave illness has just been designated a global pandemic by the World
22 Health Organization. New York's elderly and wage-laboring communities
23 are already being especially hard-hit by the Coronavirus outbreak, and
24 will be much harder-hit in the weeks to come, as the elderly are espe-
25 cially vulnerable to COVID-19 and wage-laborers have few options to work
26 from home, few healthcare options in the event that working in public
27 exposes them to Coronavirus, and virtually no accumulated savings to
28 fall back upon in the event that they either have to leave work to be
29 hospitalized or are furloughed from work as New York's, the nation's,
30 and the world's economies contract in response to diminished consumer
31 spending while the Coronavirus outbreak continues.

32 New York's local economies are especially vulnerable both to the
33 aforementioned contraction itself and to the further contraction that
34 will occur if wage-laborers become ill or are furloughed in large
35 numbers, meaning that measures that buttress or boost consumer spending
36 will be especially important to New York's economy in the days, weeks,
37 and months just ahead. New York currently has sixteen billion dollars in
38 unclaimed remittances according to the New York State comptroller, of
39 which one-third, or just over five billion dollars, can legally be
40 liquidated at once in the event that the governor should issue an execu-
41 tive emergency declaration of disaster.

42 § 3. The state finance law is amended by adding a new section 4-b to
43 read as follows:

44 § 4-b. Empire state inclusive value ledger establishment and adminis-
45 tration. 1. Definitions. As used in this section, the following terms
46 shall have the following meanings:

47 a. "Master account" means a digital account which enables payments to
48 be transferred between individual wallets.

49 b. "Individual wallet" means a digital account which: (i) is linked to
50 a master account; (ii) enables a resident to send or receive payment to
51 any entity of the state or to another resident; (iii) allows value to be
52 accumulated, stored, grown and exchanged; and

53 (iv) is not subject to fees or other value extraction for use of the
54 individual wallet.

55 c. "Resident" means an individual or a domestic corporation or foreign
56 corporation authorized to do business in the state.

1 d. "Value ledger" means the empire state inclusive value ledger estab-
2 lished pursuant to subdivision two of this section.

3 e. "State entity" means any department, board, bureau, division,
4 commission, committee, council, office of the state, or other govern-
5 mental entity with statewide jurisdiction.

6 f. "Payment service provider" means an entity which provides online
7 services for accepting electronic payments by a variety of methods,
8 including, but not limited to, by credit card, direct debit, and bank
9 transfer.

10 2. The department of financial services, in cooperation with the
11 department of taxation and finance, the office of the New York state
12 comptroller, the New York state and local retirement system, the depart-
13 ment of labor, and the department of social services shall develop,
14 establish, and maintain a value storage and payment platform to be known
15 as the empire state inclusive value ledger. The empire state inclusive
16 value ledger shall consist of a digital master account and coordinate a
17 system of individual wallets which shall be maintained and administered
18 by the urban development corporation as described herein.

19 3. All funds disbursed to residents by a state entity or any other
20 state instrumentality shall be made out of the master account to indi-
21 vidual wallets linked to the master account via the value ledger and any
22 remittance made to a state entity or other state instrumentality by a
23 resident shall be permitted to be made, at the option of the resident
24 making the remittance, from the resident's individual wallet.

25 4. One-third of the sixteen billion dollars in unclaimed remittances
26 to the state, or at least five billion three hundred thirty million
27 dollars, shall be made immediately available for remittance to New York-
28 ers who have been furloughed or otherwise unable to work due to the
29 Coronavirus outbreak of two thousand twenty-one. Any excess funds
30 remaining after disbursements to such furloughed and otherwise unable to
31 work New Yorkers shall be made available for remittance to small local
32 businesses pursuant to a pro rata formula to be developed by the state
33 comptroller. Additional one-third increments of the unclaimed remit-
34 tances shall be made as permitted by laws, rules, and regulations
35 governing the uses of such funds as and if necessary.

36 5. All residents shall have the ability to make payments to, and
37 receive payments from, other residents through links among individual
38 wallets on the value ledger. Each payment shall be effected by a simul-
39 taneous crediting of the payee's individual wallet and an equal debiting
40 of the payer's individual wallet. Such payments shall be able to be
41 directed by the means of payment cards, wire services, smart-device
42 apps, or other electronic funds transfer.

43 6. Any resident making payment to, or receiving payment from, any
44 other resident may require that the payee or payer accept or make
45 payment via the system of individual wallets on the value ledger;
46 provided, however, that residents who make payments to, or receive
47 payments from, other residents shall not be required to transact with
48 each other on the value ledger in the event that no party to the trans-
49 action opts to do so and further provided that no transacting party's
50 opting not to do so is coerced by any other transacting party or associ-
51 ates of such transacting party.

52 7. Any commercial bank, other financial institution, or payment
53 service provider doing business in the state shall be required to:

54 a. provide for full interoperability between individual wallets on the
55 value ledger and any demand deposit or transaction account maintained by

1 the commercial bank, other financial institution, or payment service
2 provider for the holders of such individual wallets; and

3 b. permit all holders of individual wallets to make deposits into and
4 withdrawals from such individual wallet via any automated teller
5 machine, teller window, or other deposit or withdrawal facility the
6 bank, financial institution, or payment service provider offers to
7 customers. There shall be no pecuniary or other charge assessed for
8 access to individual wallets; any costs associated with access to and
9 use of individual wallets shall be considered an incident of such
10 commercial bank, other financial institution, or payment service provid-
11 er's status as a publicly licensed financial utility.

12 8. The department of financial services shall also develop and make
13 available at no cost a downloadable smart-device application to be known
14 as the empire state inclusive value ledger app through which residents
15 can access and receive and make payments into and out of individual
16 wallets. All entities operating in the state that accept payments via
17 smart-device applications of any kind shall be required to accept
18 payments via the value ledger application at the option of any payer
19 wishing to pay via such value ledger application.

20 9. The department of taxation and finance, the New York state and
21 local retirement system, and the department of social services, as the
22 state's principal disbursers and receivers of funds, credits, and remit-
23 tances, shall exercise special care in assisting with and promoting the
24 establishment and wide use of the value ledger payments system, in order
25 to hasten both:

26 a. the full 'banking' of the state's 'unbanked' individuals and small
27 businesses; and

28 b. inclusion of the state's currently marginalized residents in the
29 process of value creation, wealth accumulation, and commercial exchange.

30 10. The department of financial services shall:

31 a. ensure compliance by all banks, other financial institutions, and
32 payment service providers with the requirements of this section;

33 b. prohibit and prevent any other person or company in the financial
34 services or payments industries from exploiting value ledger wallet
35 holders or otherwise subverting the value-creating and commerce-promot-
36 ing purposes of this section, including by offering advances on antic-
37 ipated state remittances for fees; and

38 c. ensure compliance with state banking, regulatory, and digital and
39 financial privacy laws by all entities that oversee or transact via the
40 value ledger. The department, in coordination with the urban development
41 corporation, shall also coordinate with any relevant regulatory agency
42 of the United States to ensure compliance with federal banking, regula-
43 tory, employee benefit and any other applicable federal laws.

44 11. The department of financial services shall be authorized to coor-
45 ordinate with its counterpart agencies in other states and territories of
46 the United States in connection with any common regulatory needs impli-
47 cated or challenges raised by state value ledgers.

48 § 4. Section 301 of the financial services law is amended by adding a
49 new subsection (d) to read as follows:

50 (d) The superintendent shall have the power to direct the department
51 to develop, establish, and maintain the empire state inclusive value
52 ledger established pursuant to section four-b of the state finance law.
53 The superintendent shall also have the power to direct the department to
54 coordinate with agencies in other states and territories of the United
55 States the regulatory needs or challenges raised by state value ledgers.

1 § 5. Section 5 of section 1 of chapter 174 of the laws of 1968,
2 constituting the New York state urban development corporation act, is
3 amended by adding three new subdivisions 31, 32 and 33 to read as
4 follows:

5 (31) To maintain and administer, in consultation with the department
6 of financial services, the department of labor, and the department of
7 social services, the empire state inclusive value ledger established
8 pursuant to section four-b of the state finance law, with a view to
9 encouraging the expansion of commerce and the broad growth and accumu-
10 lation of wealth in the state. The corporation, in consultation and
11 coordination with the department of financial services, the department
12 of labor, the department of social services, the department of taxation
13 and finance and the New York state and local retirement system, shall
14 observe and build into the empire state inclusive value ledger strict
15 compliance with the highest standards of commercial and financial data
16 privacy. Such standards shall establish, at a minimum, that: (a) no
17 wealth accumulation or spending activity of any sort that makes use of
18 the empire state inclusive value ledger shall be shared with, intimated
19 to, or sold to any non-governmental person or entity; (b) any sharing of
20 information with governmental entities shall be solely for purposes of
21 optimizing administration of the empire state inclusive value ledger or
22 for law enforcement purposes; (c) any personal data that is not being
23 used solely to assist the person whose data is being accessed and that
24 is being used for administrative purposes shall be cryptographically
25 anonymized; (d) any personal data shared with law enforcement authori-
26 ties shall be shared solely in strict compliance with the fourth amend-
27 ment to the United States constitution and any and all other state,
28 federal and local legal constraints that protect the rights of suspected
29 or accused persons and the empire state inclusive value ledger shall not
30 lessen the degree of legally assured data privacy of New Yorkers; and
31 (e) any and all practicable measures possible shall be taken to prevent
32 accidental data privacy breaches stemming from outside or inadvertent
33 disclosure.

34 (32) To explore and negotiate possible interstate compacts enabling
35 the growth of a value ledger system across multiple states, regions, and
36 territories of the United States. The corporation, as the principal
37 administrator of the empire state inclusive value ledger, shall reach
38 out to and consult with counterpart agencies in other states, with a
39 view to assisting with the development of similar value storage and
40 payment platforms in such states and with the goal of the possible
41 interoperability of such platforms with the empire state inclusive value
42 ledger.

43 (33) To explore and negotiate possible pilot programs enabling the
44 growth and spread of a value ledger system across the broader United
45 States. As the principal administrator of the empire state inclusive
46 value ledger established pursuant to section four-b of the state finance
47 law, the corporation shall be authorized to reach out to and consult
48 with the federal reserve bank of New York, the federal reserve board of
49 the United States, and the department of treasury of the United States,
50 with a view to possibly assisting such entities with the development of
51 a national value storage and payment platform similar to the empire
52 state inclusive value ledger.

53 § 6. Severability. If any provision of this act, or any application of
54 any provision of this act, is held to be invalid, that shall not affect
55 the validity or effectiveness of any other provision of this act, or of
56 any other application of any provision of this act, which can be given

1 effect without that provision or application; and to that end, the
2 provisions and applications of this act are severable.
3 § 7. This act shall take effect immediately.