STATE OF NEW YORK

6073

2021-2022 Regular Sessions

IN SENATE

April 5, 2021

Introduced by Sen. SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

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:

Section 1. This act shall be known and may be cited as the "empire state inclusive value ledger establishment and administration act".

§ 2. Legislative intent. Many New Yorkers, be they individuals or small businesses, lack access to retail banking services that can enable them to accumulate, store, and transfer value in simple commercial, financial, testamentary and gift transactions on non-exploitative terms. Many New Yorkers also lack access to basic retail payment services that can enable them to exchange value for value in retail and other transactions on non-exploitative terms. The aforementioned failures of access operate not only to marginalize and exclude large numbers of New Yorkers from ordinary interactions of the kind that underwrite full membership in society, but also to impede or obstruct multiple commercial and other transactions that determine the size and scope of the state's economy and the prosperity of its residents. Since a money or currency is what 'counts' in a system of value accounting, storage, and payment, the aforementioned failures of access also operate to limit the state and its localities' aggregate currency supplies, which in turn prevents the remuneration of many value-adding activities, including care of the needy, maintenance of local infrastructures, and provision of other public goods. As a result, the failures of access discourage such valuable activities from being undertaken at all.

A system of individual digital wallets or payment accounts, linked to 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.

LBD05967-01-1

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

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

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

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

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

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

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

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

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

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

d. "Value ledger" means the empire state inclusive value ledger established pursuant to subdivision two of this section.

e. "State entity" means any department, board, bureau, division, commission, committee, council, office of the state, or other governmental entity with statewide jurisdiction.

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

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

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

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

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

6. Any resident making payment to, or receiving payment from, any other resident may require that the payee or payer accept or make payment via the system of individual wallets on the value ledger; provided, however, that residents who make payments to, or receive payments from, other residents shall not be required to transact with each other on the value ledger in the event that no party to the transaction opts to do so and further provided that no transacting party's opting not to do so is coerced by any other transacting party or associates of such transacting party.

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

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

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

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

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

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

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

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

10. The department of financial services shall:

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

b. prohibit and prevent any other person or company in the financial services or payments industries from exploiting value ledger wallet holders or otherwise subverting the value-creating and commerce-promoting purposes of this section, including by offering advances on anticipated state remittances for fees; and

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

11. The department of financial services shall be authorized to coordinate with its counterpart agencies in other states and territories of the United States in connection with any common regulatory needs implicated or challenges raised by state value ledgers.

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

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

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

(31) To maintain and administer, in consultation with the department of financial services, the department of labor, and the department of social services, the empire state inclusive value ledger established pursuant to section four-b of the state finance law, with a view to encouraging the expansion of commerce and the broad growth and accumulation of wealth in the state. The corporation, in consultation and coordination with the department of financial services, the department of labor, the department of social services, the department of taxation and finance and the New York state and local retirement system, shall observe and build into the empire state inclusive value ledger strict compliance with the highest standards of commercial and financial data privacy. Such standards shall establish, at a minimum, that: (a) no wealth accumulation or spending activity of any sort that makes use of the empire state inclusive value ledger shall be shared with, intimated to, or sold to any non-governmental person or entity; (b) any sharing of information with governmental entities shall be solely for purposes of optimizing administration of the empire state inclusive value ledger or for law enforcement purposes; (c) any personal data that is not being used solely to assist the person whose data is being accessed and that is being used for administrative purposes shall be cryptographically anonymized; (d) any personal data shared with law enforcement authorities shall be shared solely in strict compliance with the fourth amendment to the United States constitution and any and all other state, federal and local legal constraints that protect the rights of suspected or accused persons and the empire state inclusive value ledger shall not lessen the degree of legally assured data privacy of New Yorkers; and (e) any and all practicable measures possible shall be taken to prevent accidental data privacy breaches stemming from outside or inadvertent disclosure.

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

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

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

effect without that provision or application; and to that end, the provisions and applications of this act are severable.

§ 7. This act shall take effect immediately.