STATE OF NEW YORK

9561

IN ASSEMBLY

March 20, 2024

Introduced by M. of A. KIM -- 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 enhanced public payment system 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 "enhanced public payment system act".

§ 2. Legislative intent. Many New York residents, including individuals who receive public benefits and payments related to nutrition and social services, are targets of identity and consumer theft. Similarly, many New York residents who rely on Medicaid home and community care services are victims of exploitation by private intermediaries that manage public payments.

A system of individual digital wallets or payment accounts, linked to a single master account that enables payments to move between such individual 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 thirty billion dollars of social and health benefits, including home care services, and fifty-five billion dollars in the form of tax credits, procurement payments, pension payouts, and other program dispersals, 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 assur-

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

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ing that all New York residents are: (a) able to receive real-time payments; (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.

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

§ 4-b. Empire state enhanced public payment system. 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) "public payment system" means the empire state enhanced public payment system 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, credit card, direct debit, and bank transfer; and

(g) "banked" means a payment network making real-time payments for consumers, businesses and banks.

2. The department of financial services, in cooperation with the department of taxation and finance, the office of the comptroller, the New York state and local retirement system, the department of labor, the department of health, the department of social services, and other state agencies shall develop, establish, and maintain a value storage and payment platform to be known as the empire state enhanced public payment system. The empire state enhanced public payment system 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 in subdivision thirty-one of section five of section one of chapter one hundred seventy-four of the laws of nineteen hundred sixty-eight, constituting the New York state urban development corporation act.

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 enhanced public payment system 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. 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.

5. 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 enhanced public payment system; 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 public payment system 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.

6. 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 enhanced public payment system 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.

7. 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 enhanced public payment 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 enhanced public payment application at the option of any payer wishing to pay via such enhanced public payment application.

8. The department of taxation and finance, the New York state and local retirement system, the department of health 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 enhanced public payment system, in order to hasten both:

(a) the full banking of the state's unbanked and vulnerable individuals; and

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

9. 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 enhanced public payment 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 enhanced public payment system. 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.

10. 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 enhanced public payment systems.

§ 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 enhanced public payment system 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 enhanced public payment systems.

§ 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, the department of health and the department of social services, the empire state enhanced public payment system 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 health, 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 enhanced public payment system 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 enhanced public payment system 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 enhanced public payment system 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 enhanced public payment system shall not lessen the degree of legally assured data privacy of New York residents; 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 enhanced public payment systems across multiple states, regions, and territories of the United States. The corporation, as the

principal administrator of the enhanced public payment system, 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 enhanced public payment system.

(33) To explore and negotiate possible pilot programs enabling the growth and spread of an enhanced public payment system across the broader United States. As the principal administrator of the enhanced public payment system 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 enhanced public payment system.

§ 6. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 7. This act shall take effect immediately. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.