NEW YORK STATE OF OPPORTUNITY. Homes and Community Renewal | Division of Housing and Community Renewal

KATHY HOCHUL
Governor

RUTHANNE VISNAUSKAS
Commissioner/CEO

HOUSING DEVELOPMENT FUND CORPORATIONS: PROCESS FOR OBTAINING DHCR CONSENT TO INCORPORATE AN HDFC

Section 573 of New York State Private Housing Finance Law (PHFL) provides that a sponsor seeking to establish a housing development fund company (HDFC) must obtain the approval or consent of the Commissioner of the New York State Division of Housing and Community Renewal (Commissioner or DHCR) or certain officials within a locality, prior to filing a certificate of incorporation to incorporate an HDFC with the New York State Department of State. The agency which provides this consent or approval serves as the supervising agency of the HDFC which is incorporated.

The statute requires that the provision of the consent to the filing of the certificate of incorporation of the HDFC shall be based upon findings by the Commissioner or supervising agency as to the character and competence of the sponsor.

An applicant seeking financing from New York State Housing Finance Agency (HFA), DHCR and/or the Housing Trust Fund Corporation (HTFC) must obtain the consent of the Commissioner of DHCR to the creation of an HDFC to be used in that project. An applicant must obtain the consent of the NYC Department of Housing Preservation and Development (HPD) if financing is not being sought from DHCR/HTFC/HFA and the project is located in New York City. An applicant may seek consent of either the Commissioner or the local supervising agency if the project is not in New York City and is not seeking financing from DHCR/HTFC/HFA.

In order to obtain the Commissioner's consent for the formation of a HDFC, the documentation cited below must be submitted by the sponsor or its legal representative via email to DHCRHDFCIncorporation@hcr.ny.gov. This documentation will be reviewed by DHCR's legal and program staff to determine consistency with statute and whether the character and competence of the sponsor has been satisfactorily demonstrated. Be advised that a sponsor which has previously incorporated an HDFC with the consent of DHCR or another supervising agency, must still submit a complete package of the documentation cited herein for any subsequent request, regardless of the timeframe of the last approved submission.

The Commissioner reserves the right to deny provision of consent to incorporate if DHCR determines in its sole discretion that the sponsor has not satisfactorily demonstrated its character and competence.

NOTE: **HDFC sponsors and their legal representatives are advised that DHCR will require at least fifteen (15) business days for review and provision of DHCR Consent to an initial or amended HDFC incorporation, subject to the submission of a complete, and otherwise satisfactory, HDFC incorporation package.**

The following documentation must be submitted either electronically as individual, separate scanned PDF files or as separate hard copy documents via mail delivery with each such request:

1. An executed copy of the proposed HDFC Certificate of Incorporation containing the address of the incorporator, which demonstrates to the satisfaction of the Commissioner that the HDFC complies with the not-for-profit corporation law and Section 573 of the PHFL. A recommended format for an HDFC Certificate of Incorporation is available at https://hcr.ny.gov/housing-development-fund-corporation-hdfc. **DHCR encourages strict adherence and use of the language contained in the template document.**

   This format also provides optional language which may assist an HDFC in requesting approval of a NYS Sales Tax Exemption from the Department of Taxation and Finance.

2. If the HDFC will seek a NYS Sales Tax Exemption from the NYS Department of Taxation and Finance (DTF) pursuant to Section 573 of the PHFL, the HDFC Certification Form available at https://hcr.ny.gov/housing-development-fund-corporation-hdfc must be completed and submitted by the HDFC to DTF subsequent to incorporation.

3. A copy of the sponsor's Certificate of Incorporation, or, if unincorporated, a copy of the sponsor's by-laws.

4. Proof of the sponsor corporation's good standing in the form of a Certificate of Good Standing from the Secretary of New York State, or an attorney's opinion letter (the form may not be dated more than 60 days prior to submission of the HDFC incorporation package).

5. A copy of the board resolution (with appropriate notarized signature) of the sponsor authorizing the sponsor to organize the proposed HDFC.

6. An executed Omnibus Certification Form (current format available at https://hcr.ny.gov/housing-development-fund-corporation-hdfc) with separate forms completed for the sponsor, its Board Chairperson and Executive Director. Any item on the Form which includes a "YES" response must be explained in detail. Any such items which are not addressed to the sole satisfaction of DHCR may result in the Commissioner's denial to provide the requested consent to the incorporation.

7. The sponsor's current financial statement indicating the sponsor's assets and liabilities (an explanation will be required for any such statement which is dated more than one year past the end of the most recently completed calendar year).

8. An Organization's Relevant Experience exhibit (current format available at https://hcr.ny.gov/housing-development-fund-corporation-hdfc) which is completed for the sponsor. If the sponsor does not have prior housing experience, the form must be submitted for other pertinent members of the project development team. Corporate resumes which outline specific housing development projects completed and experience will be accepted in lieu of this form. Sponsor's must be able to demonstrate their wherewithal to complete the proposed project based on their previous track record or that of the development team.

9. An Organizational Chart of the project's ownership entity, including the proposed HDFC. The specific role and percentage of ownership interest of the HDFC in the project must be indicated.

10. A narrative which describes and details the proposed housing project, its proposed scope, use, and tenure, income levels of the households served, ownership structure, financing and the sponsor. This project summary must also include the proposed housing project's plan of finance regardless of the HDFC's proposed term of duration. The plan of finance should identify the governmental agencies which are anticipated to be involved in the financing of the proposed housing project. (Note: If NYS Housing Finance Agency is anticipated as a funding source in the plan of finance, a copy of the entire submission package must be provided to HFA, to the attention of Russell Hubley, Vice President of Multifamily Finance, at Russell.Hubley@hcr.ny.gov, concurrent with submission to DHCR.)

11. Evidence of permanent firm funding commitment(s), if the HDFC term is proposed as perpetual.

12. The sponsor may request an HDFC term of three (3) years, as reflected in the proposed HDFC Certificate of Incorporation, if all such permanent funding commitments have not been obtained (such certificates may be amended subsequently to provide for perpetual duration if funding commitments are subsequently received). As noted above, sponsors requesting an HDFC term of three years must provide an initial plan of finance and project description, even if preliminary. DHCR/HTFC reserves the discretionary authority to contact other project funding sources in regard to the provision of Consent to the incorporation of the proposed HDFC.

    In addition, if DHCR/HTFC and/or HFA financing is identified in the initial plan of finance , sponsors may submit an HDFC incorporation package prior to the submission of a funding application. However, DHCR/HTFC and/or HFA may postpone review of the proposed HDFC until such time as the pertinent project is awarded DHCR/HTFC and/or HFA financing, or the need and timing of the HDFC incorporation request has been demonstrated to the sole satisfaction of DHCR/HTFC and/or HFA.

13. A completed federal tax return (IRS Form 990 for a non-profit organization) for the sponsor, whether a non-profit or for-profit entity, for the last applicable calendar year.

Corporations seeking the Commissioner's consent to incorporate an HDFC, who wish to receive an HDFC incorporation package (also available at https://hcr.ny.gov/housing-development-fund-corporation-hdfc) and/or clarification of any of the above-stated requirements, should contact:

NYS Homes and Community Renewal
Hampton Plaza
Attn: 9% LIHTC Program Management, Floor 6 South
38-40 State Street
Albany, NY 12207

Updated: October 2025