

BUDGET, FINANCE, & PERSONNEL

RESOLUTION NO. 2015026

RE: APPOINTMENT TO THE DUTCHESS COUNTY LOCAL DEVELOPMENT CORPORATION

Legislators BORCHERT and FLESLAND offer the following and move its adoption:

WHEREAS, the Dutchess County Local Development Corporation was created pursuant to Section 1411 of the Not-For-Profit Corporation Law, and

WHEREAS, pursuant to Resolution No. 2010094, the Dutchess County Legislature in addition to authorizing the formation of the Local Development Corporation authorized and approved the Certificate of Incorporation and By-laws of the Local Development Corporation, and

WHEREAS, Article II of the By-laws, provides that Directors shall be elected by a vote of the County Legislature subject to the confirmation of the County Executive, and shall hold office until their successors have been elected or appointed and qualified, now, therefore, be it

RESOLVED, that the Dutchess County Legislature does hereby appoint Alfred Torreggiano, as a member of the Board of Directors of the Dutchess County Local Development Corporation to replace Henry Killian:

APPOINTMENT

Alfred Torreggiano
18 Phillips Drive
Hyde Park, NY 12538
(replacing Henry Killian)

and, be it further

RESOLVED, that this Resolution shall be subject to confirmation by the County Executive.

STATE OF NEW YORK

ss:

COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 22nd day of January 2015, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 22nd day of January 2015.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

EDUCATION

*Saunders Trade and Technical School
John Jay High School*

*Yonkers, New York
Hopewell Junction, New York*

SKILLS

- *On Center Software*
- *Microsoft Office Professional*
- *Work Perfect Suite 10*
- *Microsoft Access*
- *Microsoft Project*
- *Prolog Manager*
- *Tally Systems*
- *AS/4000*
- *AutoCAD*

ACCREDITATIONS

- *Construction Contractors Association - Board of Directors President*
- *Laborers' International Union 1000 - Trustee*
- *Greater Southern Dutchess Chamber of Commerce*

McKinney's Consolidated Laws of New York Annotated
Not-for-Profit Corporation Law (Refs & Annos)
Chapter 35. Of the Consolidated Laws (Refs & Annos)
Article 14. Special Not-for-Profit Corporations (Refs & Annos)

McKinney's N-PCL § 1411

§ 1411. Local development corporations

Effective: July 1, 2014

Currentness

(a) Purposes. This section shall provide an additional and alternate method of incorporation or reincorporation of not-for-profit corporations for any of the purposes set forth in this paragraph and shall not be deemed to alter, impair or diminish the purposes, rights, powers or privileges of any corporation heretofore or hereafter incorporated under this section or under the stock or business corporation laws. Corporations may be incorporated or reincorporated under this section as not-for-profit local development corporations operated for the exclusively charitable or public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, carrying on scientific research for the purpose of aiding a community or geographical area by attracting new industry to the community or area or by encouraging the development of, or retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest, and any one or more counties, cities, towns or villages of the state, or any combination thereof, or the New York job development authority in exercising its power under the public authorities law to encourage the organization of local development corporations, may cause such corporations to be incorporated by public officers or private individuals or reincorporated upon compliance with the requirements of this section, and it is hereby found, determined and declared that in carrying out said purposes and in exercising the powers conferred by paragraph (b) such corporations will be performing an essential governmental function.

(b) Type of corporation. A local development corporation is a charitable corporation under this chapter.

(c) Powers. In furtherance of its purposes set forth in paragraph (a) but not for any other purposes, a local development corporation incorporated or reincorporated under this section shall have the following powers: to construct, acquire, rehabilitate and improve for use by others industrial or manufacturing plants in the territory in which its operations are principally to be conducted, to assist financially in such construction, acquisition, rehabilitation and improvement, to maintain such plants for others in such territory, to disseminate information and furnish advice, technical assistance and liaison with federal, state and local authorities with respect thereto, to acquire by purchase, lease, gift, bequest, devise or otherwise real or personal property or interests therein, to borrow money and to issue negotiable bonds, notes and other obligations therefor, and notwithstanding section 510 (Disposition of all or substantially all assets) without leave of the court, to sell, lease, mortgage or otherwise dispose of or encumber any such plants or any of its real or personal property or any interest therein upon such terms as it may determine and, in connection with loans from the New York job development authority, to enter into covenants and agreements and to comply with all the terms, conditions and provisions thereof, and otherwise to carry out its corporate purposes and to foster and encourage the location or expansion of industrial or manufacturing plants in the territory in which the operations of such corporation are principally to be conducted, provided, however, that no such corporation shall attempt to influence legislation by propaganda or otherwise, or participate or intervene, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

(d) Purchase or lease of real property owned by a county, city, town or village. (1) The local legislative body of a county, city, town or village or, if there is a board of estimate in a city, then the board of estimate, may by resolution determine that specifically described real property owned by the county, city, town or village is not required for use by such county, city, town or village and authorize the county, city, town or village to sell or lease such real property to a local development corporation incorporated or reincorporated under this article; provided, however, that title to such land be not declared inalienable as a forest preserve or a parkland.

(2) Notwithstanding the provisions of any general, special or local law, charter or ordinance to the contrary, such sale or lease may be made without appraisal, public notice, (except as provided in subparagraph (4)) or public bidding for such price or rental and upon such terms as may be agreed upon between the county, city, town or village and said local development corporation; provided, however, that in case of a lease the term may not exceed ninety-nine years and provided, further, that in cities having a population of one million or more, no such sale or lease shall be made without the approval of a majority of the members of the borough improvement board of the borough in which such real property is located.

(3) Before any sale or lease to a local development corporation incorporated or reincorporated under this article shall be authorized, a public hearing shall be held by the local legislative body, or by the board of estimate, as the case may be, to consider the proposed sale or lease.

(4) Notice of such hearing shall be published at least ten days before the date set for the hearing in such publication and in such manner as may be designated by the local legislative body, or the board of estimate as the case may be.

(5) A local development corporation, incorporated or reincorporated under this section, which purchases or leases real property from a county, city, town or village, shall not, without the written approval of the county, city, town or village, use such real property for any purpose except the purposes set forth in the certificate of incorporation or reincorporation of said local development corporation. In the event such real property is used in violation of the restrictions of this paragraph, the attorney-general may bring an action or special proceeding to enjoin the unauthorized use.

(e) Certificate of incorporation. In addition to the requirements of section 402 (Certificate of incorporation; contents) the certificate of incorporation or reincorporation of a local development corporation incorporated or reincorporated under this article shall state (1) that all income and earnings of such corporation shall be used exclusively for its corporate purposes or accrue and be paid to the New York job development authority, (2) that no part of the income or earnings of such corporation shall inure to the benefit or profit of, nor shall any distribution of its property or assets be made to any member or private person, corporate or individual, or any other private interest, except that the certificate of incorporation or reincorporation may authorize the repayment of loans and may also authorize the repayment of contributions (other than dues) to the local development corporation but only if and to the extent that any such contribution may not be allowable as a deduction in computing taxable income under the internal revenue code of nineteen hundred fifty-four, (3) that if such corporation accepts a mortgage loan or loans from the New York job development authority, such corporation shall be dissolved in accordance with the provisions of paragraph (g) upon the repayment or other discharge in full by such corporation of all such loans.

(f) Exemption of income from taxation. The income and operations of corporations incorporated or reincorporated under this section shall be exempt from taxation.

(g) Dissolution. Upon the dissolution of any local development corporation incorporated or reincorporated under this section no member or private person, corporate or individual, or other private interest, shall be entitled to any distribution or division of its remaining funds and other property and rights and interests in property, and the balance thereof, after the payment of all debts and liabilities of the corporation of whatsoever kind and nature, (including the payment of loans and contributions the repayment of which has been authorized in its certificate of incorporation or reincorporation) shall be distributed to one or more counties, cities, towns or villages within the territory designated in its certificate of incorporation or reincorporation as the territory in which its operations are principally to be conducted, for furtherance of the purposes set forth in paragraph (a), or to the New York job development authority, as shall be provided by said corporation or by order of the supreme court of the state of New York pursuant to section 1008 (Jurisdiction of supreme court to supervise dissolution and liquidation).

(h) Corporations heretofore incorporated. Any corporation heretofore incorporated under the membership corporations law or this chapter, or under the stock or business corporation law for any of the purposes set forth in paragraph (a) of this section may amend its certificate of incorporation and be reincorporated as a local development corporation organized under this section by making and filing in the office of the secretary of state a certificate, stating the name of such corporation, and, if it has been changed, the name under which it was originally incorporated, the date of its incorporation, the names and post-office addresses of its members or of the holders of record of all of the outstanding shares of such corporation entitled to vote with relation to the proceedings provided for in the certificate and that such corporation has elected to become and be a local development corporation organized and operated under and by virtue of this section. Such certificate shall be either (1) subscribed in person or by proxy by all of the members or the holders of record of all of the outstanding shares of such corporation entitled to vote with relation to such proceedings and shall have annexed an affidavit of the secretary or an assistant secretary that the persons who have executed the certificate, in person or by proxy, constitute all of the members or the holders of record of all of the outstanding shares of the corporation entitled to vote with relation to the proceedings provided for in the certificate, or (2) subscribed by the president or a vice president and the secretary or an assistant secretary and shall have annexed an affidavit of such officers stating that they have been authorized to execute and file such certificate by the votes, cast in person or by proxy, of all of the members or of the holders of record of all of the outstanding shares of such corporation entitled to vote with relation to such proceedings at the meeting at which such votes were cast, and that such votes were cast at a meeting of members or stockholders held on a date specified, upon notice pursuant to section 605 (Notice of meeting of members) or to section 605 of the Business Corporation Law. Every certificate filed under this paragraph shall have endorsed thereon or annexed thereto the approval of a justice of the supreme court of the judicial district in which the office of the corporation is to be located. A reincorporation pursuant to this paragraph shall not effect a dissolution of the corporation, but shall be deemed a continuation of its corporate existence, without affecting its then existing property rights or liabilities, or the liabilities of its members or officers as such, but thereafter it shall have only such rights, powers and privileges, and be subject only to such other duties and liabilities, as a corporation created for the same purposes under this article.

(i) Effect of section. Corporations incorporated or reincorporated under this section shall be organized and operated exclusively for the purposes set forth in paragraph (a), shall have, in addition to the powers otherwise conferred by law, the powers conferred by paragraph (c) and shall be subject to all the restrictions and limitations imposed by paragraph (e) and paragraph (g). In so far as the provisions of this section are inconsistent with the provisions of any other law, general or special, the provisions of this section shall be controlling as to corporations incorporated or reincorporated hereunder.

Credits

(L.1969, c. 1066, § 1. Amended L.1970, c. 847, § 93; L.1981, c. 179, § 1; L.1999, c. 172, § 29, eff. July 6, 1999; L.2013, c. 549, § 121, eff. July 1, 2014.)

Editors' Notes

LEGISLATIVE STUDIES AND REPORTS

1. Source: Mem.Corp.L., Article 19.

2. Changes: Slightly revised.

Comment: This section, which sets forth provisions for the regulation of local development corporations, is verbatim from Article 19 of the Mem.Corp.L. with the sole addition of a statement that such a corporation is a Type C corporation under § 201.

Notes of Decisions (7)

McKinney's N PCL § 1411, NY NOT PROF CORP § 1411
Current through L.2014, chapters 1 to 550.

End of Document

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**Budget, Finance, & Personnel
Amended**

RESOLUTION NO. 2010094

RE: AUTHORIZING THE COUNTY LEGISLATURE OF DUTCHESS COUNTY, NEW YORK TO FORM A LOCAL DEVELOPMENT CORPORATION TO PROMOTE AND CONDUCT LOCAL DEVELOPMENT ACTIVITIES IN DUTCHESS COUNTY, NEW YORK

Legislators BORCHERT, COOPER, FLESLAND, ROLISON, HORTON, MICCIO, WEISS, INCORONATO, SURMAN, HUTCHINGS, SADOWSKI, HORN, KELSEY, TRAUDT, THOMES, BLONER, and FORMAN offer the following and move its adoption:

WHEREAS, the County Legislature of Dutchess County, New York (the "County") has determined that it is in the best interests of the County for such County to form a local development corporation to promote and conduct economic development activities in the County; and

WHEREAS, the Dutchess County Local Development Corporation (the "Corporation") will be formed as a local development corporation under Section 1411 of the New York Not-for-Profit Corporation Law (the "N-PCL"); and

WHEREAS, the powers and purposes of the Corporation will serve to complement the powers of the Dutchess County Industrial Development Agency (the "IDA"), including, but not limited to, the power to finance facilities for not-for-profit corporations, acquire, improve, maintain, equip and furnish projects, to lease such projects and collect rent; to sell and convey any and all of its property whenever the board of directors shall find such action to be in furtherance of the purposes for which it was organized; thus enabling the Corporation to finance transactions that the IDA currently cannot under its enabling legislation; and

WHEREAS, under Internal Revenue Service ("IRS") guidance, the Corporation must meet certain requirements in order for it to qualify as an entity eligible to issue tax-exempt bonds on behalf of the County which include: (1) the Corporation is formed only after the governing body of the County has given its formal approval to the creation of the Corporation and to the form of Certificate of Incorporation; (2) the Board of Directors of the Corporation is elected by the County Legislature of the County subject to confirmation of the County Executive and serves without compensation; (3) the Corporation's corporate powers include the power to acquire, improve, maintain, equip and furnish projects, to lease such projects and collect rent; to sell and convey any and all of its property whenever the Board of Directors shall find such action to be in furtherance of the purposes for which it was organized; and to issue bonds for the purpose of carrying out any of its powers; (4) all bonds are payable solely out of revenues and receipts derived from the leasing or sale by the Corporation of its projects, or from loans made by the Corporation; (5)

the County is not liable for the payment of principal or interest on any of the bonds of the Corporation; (6) the Corporation is exempt from all state taxation, and interest on bonds issued by the Corporation is exempt from state taxes; (7) the Corporation is a nonprofit corporation and no part of its net earnings may inure to the benefit of any private person; and (8) upon dissolution of the Corporation, the title to all property owned by it shall vest in and become the property of the County in accordance with applicable law; and

WHEREAS, Section 1411(c) of the N-PCL provides local development corporations with authority to issue bonds to carry out their purposes and Section 1411(f) of the N-PCL provides that the income and operations of such corporations are exempt from state taxation; and

WHEREAS, the Corporation shall be formed under the N-PCL and shall be subject to all the provisions of the N-PCL as modified by Section 1411 and the Corporation shall be formed with the specific purposes as follows: "The Corporation is formed and shall be operated exclusively for the charitable and public purposes of benefiting and furthering the activities of the County, more specifically, the Corporation shall act as a local development corporation for the County by conducting activities that will relieve and reduce unemployment; promote and provide for additional and maximum employment; better and maintain job opportunities; instruct or train individuals to improve or develop their capabilities for such jobs; carry on scientific research for the purpose of aiding the County by attracting new industry to the County; or by encouraging the development of, or retention of, an industry in the County; and lessening the burdens of government and acting in the public interest"; now, therefore, be it

RESOLVED, that the County approves the formation of the Corporation under N-PCL as a local development corporation and the County will be the sole member of the Corporation; and be it further

RESOLVED, that the Corporation shall be the Dutchess County Local Development Corporation; and be it further

RESOLVED, that the Corporation shall have no less than three (3) Directors nor more than seven (7) Directors; and be it further

RESOLVED, that the following are duly nominated and elected as the initial members of the Corporation's Board of Directors, to serve until their successors are elected and have been qualified:

Michael J. Tomkovitch
Charles Daniels, III
Angela Flesland
George R. Stoffers
David R. Teter
Phyllis DiStasi Keenan
Henry Killian; and be it further

RESOLVED, that the Board of Directors are hereby empowered, authorized and directed to take all actions as may be required in furtherance of the designation of the Corporation; and be it further

RESOLVED, that the Board of Directors be encouraged to direct the originators of the projects to incorporate the use of the local labor force wherever possible, and be it further

RESOLVED, that the Certificate of Incorporation and By-Laws, in substantially the form attached to these resolutions, are hereby approved and adopted; and be it further

RESOLVED, that this Legislature, hereby finds and determines that the Dutchess County Clerk is authorized to take such actions and execute such documents as he/she deems necessary or appropriate to carry out these resolutions.

CA-57-10

ADR/ca/G-1406

3/24/10

Fiscal Impact: See attached statement

Amended in Budget, Finance, and Personnel 4/8/10 lw

APPROVED



WILLIAM R. STEINHAUS
COUNTY EXECUTIVE

Date April 16, 2010.

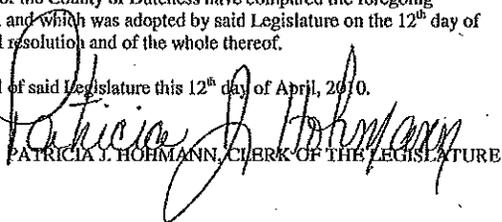
STATE OF NEW YORK

ss:

COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 12th day of April, 2010, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 12th day of April, 2010.



PATRICIA J. HOHMANN, CLERK OF THE LEGISLATURE