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**Beware of New York Department of State Filing Delays
*Consider Electronic Filings or Forming in Another State***

What is the problem?

Many nonprofit corporations that have submitted hard copy filings to the New York Department of State are facing significant delays. This is affecting New York not-for-profit corporations attempting to file a Certificate of Incorporation, Certificate of Amendment, Certificate of Assumed Name, or Certificate of Dissolution, among other filings. It is also affecting foreign nonprofit corporations attempting to file an Application for Authority to conduct business in New York.

Department of State staff have told callers that they are still processing hard copy filings from summer 2021. Public records bear this out: between mid-April 2022 and mid-May 2022, the Department of State filed 58 documents that nonprofits had submitted back in July or August 2021.¹

What can nonprofit organizations do to avoid these delays?

- Nonprofit organizations may be able to get their filings processed quickly by working with a corporate services company or law firm to file electronically. Currently, only companies that have established a pre-paid account (also called a “drawdown account”) can submit electronic filings to the Department of State and are able to circumvent delays.
- An organization seeking to incorporate might want to consider forming in another state with a shorter filings backlog. Delaware, for instance, tends to process nonprofit corporate filings very quickly. Information about the pro’s and con’s of incorporating in Delaware versus New York is available in our Legal Alert, [“Should a Nonprofit Incorporate in New York or Delaware?”](#)

This alert is meant to provide general information only, not legal advice. If you have any questions about this alert please contact Senior Policy Counsel Laura Abel at label@lawyersalliance.org or visit our website at www.lawyersalliance.org for further information. To become a client, visit www.lawyersalliance.org/becoming-a-client.

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¹ Data on Department of State Corporations and other Entities filings for the prior 30 days is available at <https://data.ny.gov/Economic-Development/Daily-Corporation-and-Other-Entity-Filing-Data/k4vb-judh>

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