

SECTION .1600 - REGISTRATION OF QUALIFIED BUSINESSES

18 NCAC 06A .1601 PURPOSE

The Securities Division of the Office of the Secretary of State of North Carolina is authorized by Article 4 of Chapter 105 of the North Carolina General Statutes to register certain qualified businesses as "Qualified Business Ventures" and "Qualified Grantee Businesses" as those terms are defined by G.S. 105-163.010, so that investments in such qualified businesses are eligible for the income tax credit provided for by G.S. 105-163.011.

History Note: Filed as a Temporary Rule Eff. January 1, 1988 For a Period of 180 Days to Expire on June 29, 1988;

Authority G.S. 105-163.013;

Eff. March 1, 1988;

Amended Eff. March 1, 1996.

18 NCAC 06A .1602 PROCEDURE FOR APPLICATION FOR REGISTRATION

(a) A business which seeks to register as either a "qualified business venture" or "qualified grantee business" or to renew such registration shall make written application to the Securities Division of the Department of the Secretary of State of North Carolina on an application form entitled "Application For Registration as a Qualified Business Venture/Qualified Grantee Business" furnished upon request by the Securities Division.

(b) General Information Required in Application. Each application for registration shall contain the following information:

- (1) the classification (either Qualified Business Venture or Qualified Grantee Business) for which the applicant business seeks to qualify;
- (2) an indication as to whether the application is for the initial registration of the applicant business, or for the renewal of a registration;
- (3) the full legal name of the applicant business;
- (4) the street address and, if different, the mailing address of the principal office of the applicant business;
- (5) the telephone number and the Employer Identification Number of the applicant business;
- (6) the date on which the applicant business' fiscal year ends;
- (7) the type of business organization of the applicant business, and a copy of the documents, if any, under which the applicant business is organized (for example, the articles of incorporation or organization; the certificate of limited partnership; trust documents; certificate of assumed name; etc.);
- (8) the name of the authorized representative of the applicant business, his title, street address, mailing address (if different from street address), and telephone number; and
- (9) if the applicant business is a corporation or limited liability company, the date of and state of incorporation or organization.

(c) Specific Information and Representations Required -- Qualified Business Venture. The application for registration of a "qualified business venture" shall contain the following information and representations on a form entitled "Attachment A -- Qualified Business Venture" available upon request from the Securities Division:

- (1) a certification that the facts set forth in G.S. 105-163.013(b) (1)-(6) apply to the applicant business, and a letter which:
 - (A) describes the business activities in which the applicant business is or will be engaged;
 - (B) describes how such activities meet the requirements of G.S. 105-163.013(b)(3);
 - (C) states whether the applicant business is or will be engaged in any of the activities listed in G.S. 105-163.013(b)(4); and
 - (D) states either an estimate of the percentage of the gross revenues expected to be generated by the activities listed in G.S. 105-163.013(b)(4) (for businesses organized after January 1 of the calendar year in which the application is filed) or the actual percentage of gross revenues generated by such activities (for businesses organized prior to January 1 of the calendar year in which the application is filed).
- (2) in initial applications for registration as a qualified business venture, a statement that the applicant business has been organized after January 1 of the calendar year in which the application is filed or a financial statement for its most recent fiscal year, certified by an independent certified public

- accountant, showing that the applicant business had revenues of five million dollars (\$5,000,000) or less, determined on a consolidated basis using generally accepted accounting principles; and
- (3) in applications for renewal of registration as a qualified business venture, a financial statement for the most recent fiscal year prepared in the same manner and containing the same information as the statement described in Subparagraph (c)(2) of this Rule and, if the applicant business engages in any of the activities set forth in G.S. 105-163.013(b)(4), showing the percentage of gross revenues generated by such activities.
- (d) **Specific Information and Representations Required -- Qualified Grantee Business.** The application for registration of a "qualified grantee business" shall contain the following information and representations on a form entitled "Attachment B -- Qualified Grantee Business" available upon request from the Securities Division:
- (1) a certification that the facts set forth in G.S. 105-163.013(c) apply to the applicant business, and written evidence of the receipt of the grant or funding required by G.S. 105-163.013(c) within the three years preceding the date of the application for registration or for renewal of registration;
- (2) documentary evidence of the receipt of the grant or funding certified to in Subparagraph (1) of this Paragraph.
- (e) **Signing of the Application.** Each application for registration shall be signed by the authorized representative of the applicant business, and each application shall contain the following oath or affirmation by the signing authorized representative: "Under penalties prescribed by law, I hereby swear and/or affirm that to the best of my knowledge and belief this application is true and complete." This statement shall be verified by a person duly authorized to administer oaths.
- (f) **Filing Fee.** The filing fee shall be payable by check, made payable to the order of "SECRETARY OF STATE", and shall accompany the application for registration.
- (g) **Where to File Application for Registration.** All applications for registration shall be filed by mailing the application, together with any supplemental schedules or statements and the filing fee, to:

QUALIFIED BUSINESS REGISTRATION

Department of the Secretary of State

Securities Division

P.O. Box 29622

Raleigh, North Carolina 27626-0622.

- (h) **Due Date for Filing Application for Registration.** The initial application for registration shall be filed prior to making of the investment for which an income tax credit pursuant to G.S. 105-163.011 will be claimed. The application for renewal of registration shall be filed with the Securities Division no later than the 15th day of the third month following the close of the applicant business' fiscal year.
- (i) **Review of Application; Notification of Qualification Status.**
- (1) The date of filing of all applications for registration (both initial and renewals) shall be recorded at the time of receipt by the Securities Division and shall not be construed to be the date of mailing. Recordation of the date of filing does not indicate that the application is complete.
- (2) The Administrator of the Securities Division shall review all applications and designate those he determines to be complete. In the event that the administrator determines that an application is incomplete in any respect, the applicant shall be notified of the application's deficiencies within 15 days. Except as provided in Subparagraph (i)(3) of this Rule, if the applicant does not remedy such deficiencies within 60 days following a deficiency notice from the Division, the application shall be rejected.
- (3) Upon examination of the application for registration, the administrator shall determine whether the applicant business meets the requirements for classification, qualified business venture or qualified grantee business, as the case may be. If an applicant for registration as a qualified business venture was organized prior to January 1 of the calendar year in which the application is filed and does not produce the financial statement described in Subparagraph (c)(2) of this Rule, the Division shall grant a conditional registration to the applicant, upon written request by the Applicant, subject to the applicant's furnishing to the Division a financial statement meeting the requirements of Subparagraph (c)(3) of this Rule within five months following the end of the applicant's current fiscal year. If such a financial statement is not filed with the Division within the period provided by this Rule, the applicant's conditional registration shall be canceled as of its initial effective date. When the determination has been made, the administrator shall notify the applicant business

- of its determination and that persons interested in tax-favored investments with respect to the applicant business may obtain from the Securities Division certificates of such qualified status.
- (4) The submission of any false or misleading information in connection with an application for registration shall be grounds for rejection of the application or revocation of the registration, or both.

History Note: Authority G.S. 105-163.013;
Temporary Rule Eff. January 1, 1988 for a Period of 180 Days to Expire on June 29, 1988;
Eff. March 1, 1988;
Amended Eff. April 1, 2003; March 1, 1996; September 1, 1990.

18 NCAC 06A .1603 AMENDMENT OF APPLICATION

A business which has registered with the Securities Division pursuant to G.S. 105-163.013 may amend an application which the administrator has determined to be complete at any time by submitting new information or evidence as required by Rule .1602. The same procedural requirements shall apply to the amendment.

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18 NCAC 06A .1604 OBTAINING CERTIFICATES OF REGISTRATION

Persons who contemplate investment in a qualified business venture or a qualified grantee business may obtain a certificate stating that an applicant business has registered as a "qualified" business with the Securities Division of the Department of the Secretary of State and has met all requirements of qualification by requesting such certificate in writing from:

CERTIFICATE OF QUALIFIED STATUS
Department of Secretary of State
Securities Division
P.O. Box 29622
Raleigh, North Carolina 27626-0622.

History Note: Authority G.S. 105-163.013;
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18 NCAC 06A .1605 REPORTING REQUIREMENT/TERMINATION/QUALIFIED INVEST (REPEALED)

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18 NCAC 06A .1606 REPORTING REQUIREMENT/TERMINATION/QUALIFIED INVEST (REPEALED)

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