



APPLICATION FOR CERTIFICATION AS AN ANGEL FUND
 NORTH DAKOTA DEPARTMENT OF COMMERCE
 SFN 59140 (7-2017)

ND Department of Commerce
 Economic Development &
 Finance Division Use Only
 Approved (initial below)
 Denied
 Original
 Recertified

►Use only after June 30, 2017 for certification as an angel fund for the Angel Investor Tax Credit under N.D.C.C. §57-38-01.26.

Business Information

Please Print

Applicant		Federal Employer Identification Number	
Primary Contact		Title	
Address		City	State Zip
Web site	Email Address	Telephone	

Angel Fund Certification

1. Type of organization: <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Limited Liability Partnership <input type="checkbox"/> Trust <input type="checkbox"/> Estate	1a. <input type="checkbox"/> Non-profit <input type="checkbox"/> For-profit 1b. State in which business was organized: <input type="checkbox"/> North Dakota <input type="checkbox"/> Other:	OFFICE USE ONLY 1c. Date on which business was organized:
2. Location of Headquarters (State) _____		
3. Is the entity or enterprise engaged in real estate or real estate activities ? <input type="checkbox"/> Yes <input type="checkbox"/> No See page 2 for definitions of items in bold text.		
4. Does this fund consist of at least six accredited investors as defined by Securities and Exchange Commission Regulation D, rule 501? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please complete attachment A. The information will remain confidential.		
5. Does this fund have more than twenty-five percent of its capitalized investment assets owned by an individual investor? <input type="checkbox"/> Yes <input type="checkbox"/> No		
6. Does this fund have commitments totaling at least \$500,000 from accredited investors? (See page 4 for definition of accredited investor.) <input type="checkbox"/> Yes <input type="checkbox"/> No Please provide documented verification of investment commitments.		
6a. Is this capital subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises? <input type="checkbox"/> Yes <input type="checkbox"/> No		
7. Is the fund member-managed or a manager-managed limited liability company? <input type="checkbox"/> Yes <input type="checkbox"/> No		
7a. Do the investor members, or designated board of directors that includes investor members, make decisions as a group on which enterprises are worthy of investments? <input type="checkbox"/> Yes <input type="checkbox"/> No		
8. Is the fund in compliance with the requirements for filings with the securities commissioner under federal and state securities laws? <input type="checkbox"/> Yes <input type="checkbox"/> No		
8a. Will the fund invest in only in-state and out-of-state qualified businesses that issue securities in compliance with state and federal securities laws? <input type="checkbox"/> Yes <input type="checkbox"/> No See page 2 for definitions of items in bold text.		

The undersigned certifies that the information provided in this document is true and accurate.

Applicant (Please print)	Title
Signature	Date

Consistent with North Dakota law, information contained in the shaded areas will be kept confidential within the North Dakota Department of Commerce, the North Dakota Securities Department and the North Dakota Office of State Tax Commissioner.

In compliance with the Federal Privacy Act of 1974, Public Law 93-579, the disclosure of the taxpayer's social security number or federal employer identification number (FEIN) on this form is mandatory and is required under Subsection 2 of North Dakota Century Code § 44-04-28. Failure to provide this information will result in withdrawal of the application.

Certification criteria

The Angel Fund must:

- a. Be a passthrough entity organized after June 30, 2017, as a domestic for-profit entity under the laws of this state, and have its headquarters in this state.
- b. Not have invested, or intend on investing during its certification period, in real estate or real estate activities as described under N.D.C.C. §57-38-01.26, subdivision e of subsection 2.
- c. Consist of at least six accredited investors as defined in regulation D, rule 501 of the federal Securities Act of 1933. Not have more than twenty-five percent of its capitalized investment assets owned by any one investor.
- d. Have at least five hundred thousand dollars in commitments from accredited investors which are subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.
- e. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.
- f. Be certified as an angel fund that meets the requirements of this subsection by the department of commerce.
- g. Be in, and remain in, compliance with state and federal securities laws, and invest only in in-state qualified businesses or an out-of-state qualified business that are issuing securities in compliance with state and federal securities laws

Definitions

- "Real estate activities" includes real estate development, a real estate holding company, an entity that derives income from the selling or leasing of residential or commercial real estate, or carries on operations in the hotel, restaurant, convention, or hospitality industries, or makes any other similar use of real estate.
- "Domestic organization" means an organization created under the laws of this state.
- "In-state qualified business" means an early-stage or mid-stage private, nonpublicly traded enterprise that:
 - (1) Is created, or its satellite operation is created, as a for-profit entity under the laws of this state.
 - (2) Has its principal office in this state and has the majority of its business activity performed in this state, except sales activity, or has a significant operation in this state that has or is projected to have more than ten employees in this state.
 - (3) Relies on research or the development of new products and processes in its plans for growth and profitability.
 - (4) Is in compliance with state and federal securities laws.
 - (5) Is not an entity or enterprise which is engaged in real estate development, is a real estate holding company, derives income from the selling or leasing of residential or commercial real estate, or carries on operations in the hotel, restaurant, convention, or hospitality industries, or makes any other similar use of real estate.

- (6) Is certified as an in-state qualified business that meets the requirements of this section by the department of commerce.
- "Out-of-state qualified business" means an early-stage or mid-stage private, nonpublicly traded enterprise that:
 - (1) Is created as a for-profit entity.
 - (2) Relies on research or the development of new products and processes in its plans for growth and profitability.
 - (3) Is in compliance with state and federal securities laws.
 - (4) Is not an entity or enterprise engaged in real estate development, is a real estate holding company, derives income from the selling or leasing of residential or commercial real estate, or carries on operations in the hotel, restaurant, convention, or hospitality industries, or makes any other similar use of real estate.
 - (5) Is certified as an out-of-state qualified business that meets the requirements of this section by the department of commerce.

Instructions for applicant

The applicant must verify the accredited investor membership of the business by either completing Attachment A or attaching a separate document listing the names, contact information and investment amounts of each accredited investor. Definition of accredited investors can be found at the bottom of Attachment A.

The applicant must submit verification of the investments meeting the five-hundred thousand dollar minimum commitment requirement.

Fund must meet all qualification criteria in the North Dakota Century Code § 57-38-01.26 to be considered for certification as an Angel Fund for the Angel Investor Tax Credit.

New applications must be approved prior to a fund investing in a qualified business for which investors intend to submit claims for the tax credit. Applications for re-certification must be submitted 30 days prior to the date on which the fund's current certification expires. Angel Fund certifications beginning in 2017 will expire December 31, 2020. Certifications beginning in 2018 or later will expire on December 31st of the third calendar year following the calendar year in which the certification start date falls.

Required Documentation

- Attachment A of this application
- Organizational documentation; i.e. Articles of Organization or Incorporation
- Membership Agreement
- Subscription or Contribution Agreement
- List with name, location and description of companies in which your fund has already invested (if any)

Submit the supporting documentation and the completed application to:

North Dakota Department of Commerce
Economic Development & Finance Division
Attention: Research Manager
PO Box 2057
Bismarck, ND 58502-2057

IMPORTANT: There are additional reporting requirements and other conditions contained in the governing statute that the angel fund must satisfy. To see them, please visit: <http://www.legis.nd.gov/cencode/t57c38.pdf#nameddest=57-38-01p26> (see § 57-38-01.26).

If you have any questions...

Call:

Research Manager – 701-328-5300

Write to:

North Dakota Department of Commerce
Economic Development & Finance Division
Attention: Research Manager
PO Box 2057
Bismarck, ND 58502-2057

CONFIDENTIAL

Attachment A

Investor Name	Address	Telephone	Email	Investment Amount	Committed Amount	Accreditation explanation (1-8)

Definition of Accredited Investor as Defined in Regulation D, Rule 501

As used in Regulation D (§§230.501–230.508), *Accredited investor* shall mean any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:

- (1) Any bank as defined in section 3(a)(2) of the Act, or any savings and loan association or other institution as defined in section 3(a)(5)(A) of the Act whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934; any insurance company as defined in section 2(a)(13) of the Act; any investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; any Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958; any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of \$5,000,000; any employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such act, which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of \$5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;
- (2) Any private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940;
- (3) Any organization described in section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000;
- (4) Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;
- (5) Any natural person whose individual net worth, or joint net worth with that person's spouse, exceeds \$1,000,000.
- (6) Any natural person who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;
- (7) Any trust, with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in §230.506(b)(2)(ii); and
- (8) Any entity in which all of the equity owners are accredited investors.

For more detailed definitions see <https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=8edfd12967d69c024485029d968ee737&r=SECTION&n=17y3.0.1.1.12.0.46.176>. Several of these categories have additional bullet points. For instance, item #5 states that (A) The person's primary residence shall not be included as an asset.