

**§ 142-82. Definitions.**

The following definitions apply in this Article:

- (1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.
- (2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.
- (2a) **(Expires December 31, 2028 – see note)** Build NC Bonds. – Special indebtedness issued to finance Build NC Projects, with the Build NC Net Proceeds of such special indebtedness used in accordance with both of the following requirements, measured in the aggregate for all issues:
  - a. Within two percent (2%) of fifty percent (50%) of the Build NC Net Proceeds during such period used for Division Need Projects in accordance with the requirements of Article 14B of Chapter 136 of the General Statutes.
  - b. The remainder of the Build NC Net Proceeds during such period used for Regional Impact Projects in accordance with the requirements of Article 14B of Chapter 136 of the General Statutes.
- (2b) **(Expires December 31, 2028 – see note)** Build NC Net Proceeds. – The proceeds of an issue of Build NC Bonds net of deposits for the costs described in sub-subdivisions d., e., and f. of subdivision (6) of this section.
- (2c) **(Expires December 31, 2028 – see note)** Build NC Project. – A capital facility identified and selected for financing with Build NC Bonds under this Article by the process set forth in Article 14B of Chapter 136 of the General Statutes.
- (3) Capital facility. – Any one or more of the following:
  - a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.
  - b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.
  - c. Land or an interest in land.
  - d. Other infrastructure.
  - e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.
- (4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.
- (5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.
- (6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:
  - a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

- b. The cost of engineering, architectural, and other consulting services.
  - c. The cost of providing personnel to ensure effective management of capital facilities.
  - d. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any special indebtedness or related documents, interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.
  - e. Administrative expenses and charges.
  - f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.
  - g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.
  - h. Any other costs and expenses necessary or incidental to the purposes of this Article.
- (7) Credit facility. – An agreement that:
- a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company, or other insurance institution, a corporation, investment banking firm, or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and
  - b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.
- (8) Department of Administration. – The North Carolina Department of Administration, created by Article 36 of Chapter 143 of the General Statutes or, if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.
- (9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment-purchase contract, or other similar type installment financing contract. The term does not include, however, a contract that meets any one of the following conditions:
- a. It constitutes an operating lease under generally accepted accounting principles.
  - b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal

- amount of not in excess of five thousand dollars (\$5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.
- c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.
- (10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.
- (11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.
- (12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.
- (13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.
- (14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:
- a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.
  - b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.
  - c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.
- (15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.
- (16) Special corporation. – Either of the following:
- a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
  - b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
- (17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
- (18) State. – The State of North Carolina, including any State agency.
- (19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
- (20) State Treasurer. – The incumbent Treasurer, from time to time, of the State. (2003-284, s. 46.2; 2003-314, s. 1; 2004-203, s. 79; 2018-16, s. 3.)