

## § 54D-2. Definitions.

In this Chapter, the following definitions apply:

- (1) Account agreement. – An agreement to which all of the following apply:
  - a. The agreement is in a record between a bank and one or more depositors.
  - b. The agreement may have one or more beneficiaries as additional parties.
  - c. The agreement states the intention of the parties to establish a special deposit governed by this Chapter.
- (2) Bank. – A person engaged in the business of banking and includes a bank as defined in G.S. 53C-1-4, savings bank, savings and loan association, and credit union. Each branch or separate office of a bank is a separate bank for the purpose of this Chapter.
- (3) Beneficiary. – A person that satisfies either of the following:
  - a. The person is identified as a beneficiary in an account agreement.
  - b. If not identified as a beneficiary in an account agreement, the person is entitled to payment from a special deposit under the account agreement or on termination of the special deposit.
- (4) Contingency. – An event or circumstance stated in an account agreement that is not certain to occur but must occur before the bank is obligated to pay a beneficiary.
- (5) Creditor process. – Attachment, garnishment, levy, notice of lien, sequestration, or similar process issued by or on behalf of a creditor or other claimant.
- (6) Depositor. – A person that establishes or funds a special deposit.
- (7) Good faith. – Honesty in fact and observance of reasonable commercial standards of fair dealing.
- (8) "Knowledge" of a fact. – Either of the following:
  - a. With respect to a beneficiary, actual knowledge of the fact.
  - b. With respect to a bank holding a special deposit, either of the following:
    1. If the bank has established a reasonable routine for communicating material information to an individual to whom the bank has assigned responsibility for the special deposit and maintains reasonable compliance with the routine, actual knowledge of the fact by that individual.
    2. If the bank has not established and maintained reasonable compliance with a routine described in sub-sub-subdivision 1. of this sub-subdivision, implied knowledge of the fact that would have come to the attention of an individual to whom the bank has assigned responsibility for the special deposit.
- (9) Obligated to pay a beneficiary. – A beneficiary is entitled under the account agreement to receive from the bank a payment when a contingency has occurred and the bank has knowledge the contingency has occurred. "Obligation to pay a beneficiary" has a corresponding meaning.
- (10) Permissible purpose. – A governmental, regulatory, commercial, charitable, or testamentary objective of the parties stated in an account agreement. The term includes an objective to do any of the following:
  - a. Hold funds in any of the following circumstances:

1. In escrow, including for a purchase and sale, lease, buyback, or other transaction.
  2. As a security deposit of a tenant.
  3. That may be distributed to a person as remuneration, retirement or other benefit, or compensation under a judgment, consent decree, court order, or other decision of a tribunal.
  4. For distribution to a defined class of persons after identification of the class members and their interest in the funds.
- b. Provide assurance with respect to an obligation created by contract, such as earnest money to ensure a transaction closes.
  - c. Settle an obligation that arises in the operation of a payment system, securities settlement system, or other financial market infrastructure.
  - d. Provide assurance with respect to an obligation that arises in the operation of a payment system, securities settlement system, or other financial market infrastructure.
  - e. Hold margin, other cash collateral, or funds that support the orderly functioning of financial market infrastructure or the performance of an obligation with respect to the infrastructure.
- (11) Person. – An individual, estate, business or nonprofit entity, government or governmental subdivision, agency, or instrumentality, or other legal entity. The term includes a protected series, however denominated, of an entity if the protected series is established under law that limits, or limits if conditions specified under law are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to satisfy a claim from assets of the protected series.
- (12) Record. – Information inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form.
- (13) Special deposit. – A deposit that satisfies G.S. 54D-5.
- (14) State. – A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States. The term includes an agency or instrumentality of these entities. (2025-25, s. 158.)