

Part 4. Definitions.

§ 55-1-40. Chapter definitions.

The following definitions apply in this Chapter unless otherwise specifically provided:

- (1) Articles of incorporation. – Include amended and restated articles of incorporation and articles of merger.
- (2) Authorized shares. – The shares of all classes a domestic or foreign corporation is authorized to issue.
- (2a) Business entity, as used in G.S. 55-11-10 and Article 11A of this Chapter. – A domestic corporation, including a professional corporation as defined in G.S. 55B-2, a foreign corporation, a domestic or foreign nonprofit corporation, a domestic or foreign limited liability company, a domestic or foreign limited partnership, a registered limited liability partnership or foreign limited liability partnership as defined in G.S. 59-32, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State.
- (3) Conspicuous. – So written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlined, is conspicuous.
- (4) Corporation or domestic corporation. – A corporation for profit or a corporation having capital stock that is incorporated under or subject to the provisions of this Chapter and that is not a foreign corporation except that in G.S. 55-9-01 and G.S. 55-15-21 "corporation" includes domestic and foreign corporations.
- (5) Deliver. – Includes mail.
- (6) Distribution. – A direct or indirect transfer of money or other property (except its own shares) or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.
- (6a) Dividend credit, as used in G.S. 55-6-01(d)(5). – The aggregate of all yearly dividend credits. "Yearly dividend credit" means with respect to noncumulative preferred shares, the amount by which the full dividend preference of a share, to the extent that the preference is earned by the corporation with respect to the share in a particular fiscal year, exceeds the dividends paid on the share for that year; however, dividend credit shall not accrue unless, and only to the extent that, there exists an earned surplus at the end of that fiscal year. Computations of earnings allocable to classes of shares made in good faith by the board of directors in accordance with generally accepted accounting principles are conclusive. For the purpose of this definition, a dividend is deemed paid if it has been declared and funds for its payment have been set aside.
- (6b) Domestic limited liability company. – The same meaning as the term "LLC" in G.S. 57D-1-03.
- (6c) Domestic limited partnership. – The same meaning as in G.S. 59-102.
- (6d) Domestic nonprofit corporation. – A corporation as defined in G.S. 55A-1-40.
- (7) Effective date of notice. – Defined in G.S. 55-1-41.
- (8) Electronic. – The same meaning as in G.S. 66-312.
- (8a) Electronic record. – The same meaning as in G.S. 66-312.
- (8b) Electronic signature. – The same meaning as in G.S. 66-312.
- (8c) Email. – An electronic transmission directed to a unique email address.

- (8d) Email address. – A destination, commonly expressed as a string of characters, consisting of a unique username or mailbox, commonly referred to as the "local part" of the address, and a reference to an internet domain, commonly referred to as the "domain part" of the address, whether or not displayed, to which an email may be sent or delivered.
- (9) Entity. – Without limiting the meaning of the term in Article 9 of this Chapter, includes any of the following:
 - a. Any of the following, whether domestic or foreign:
 - 1. Corporation; nonprofit corporation; professional corporation.
 - 2. Limited liability company.
 - 3. Profit and nonprofit unincorporated association.
 - 4. Business trust, estate, partnership, trust.
 - b. Two or more persons having a joint or common economic interest.
 - c. The United States, and any state and foreign government.
- (10) Foreign corporation. – A corporation for profit incorporated under a law other than the law of this State.
- (10a) Foreign limited liability company. – The same meaning as the term "foreign LLC" in G.S. 57D-1-03.
- (10b) Foreign limited partnership. – The same meaning as in G.S. 59-102.
- (10c) Foreign nonprofit corporation. – A foreign corporation as defined in G.S. 55A-1-40.
- (11) Governmental subdivision. – Includes authority, county, district, and municipality.
- (12) Includes. – A partial definition.
- (13) Individual. – Denotes a natural person legally competent to act and also includes the estate of an incompetent or deceased individual.
- (13a) Mail, when used as a verb. – To deposit in the United States mail with postage prepaid and correctly addressed. When a corporation mails an item to a shareholder, "correctly addressed" means addressed to the shareholder's address as shown in the corporation's current record of shareholders.
- (14) Repealed by Session Laws 2023-130, s. 1(a), effective October 1, 2023, and applicable to notices provided on or after that date.
- (14a) Merger, as used in Article 9. – Includes a "share exchange" as used in Article 11.
- (15) Notice. – Includes demand and is defined in G.S. 55-1-41.
- (16) Person. – Includes individual and entity.
- (17) Principal office. – The office, in or out of this State, where the principal executive offices of a domestic or foreign corporation are located, as designated in its most recent annual report filed with the Secretary of State or, in the case of a domestic or foreign corporation that has not yet filed an annual report, in its articles of incorporation or application for a certificate of authority, respectively.
- (18) Proceeding. – Includes civil suit and criminal, administrative, and investigatory action.
- (18a) Public corporation. – Any corporation that has a class of shares registered under Section 12 of the Securities Exchange Act of 1934, as amended (15 U.S.C. § 78*l*).
- (19) Record date. – The date established under Article 6 or 7 on which a corporation determines the identity of its shareholders for purposes of this Chapter.

- (20) Secretary. – The corporate officer to whom the board of directors has delegated responsibility under G.S. 55-8-40(c) for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.
- (20a) Service-disabled veteran. – A veteran with a disability that was incurred or aggravated during the veteran's service in the Armed Forces of the United States.
- (20b) Service-disabled veteran-owned small business. – A business that satisfies both of the following requirements:
 - a. The business's net annual receipts do not exceed one million dollars (\$1,000,000).
 - b. One or more service-disabled veterans own more than fifty percent (50%) of the business.
- (21) Shares. – The units into which the proprietary interests in a corporation are divided.
- (22) Shareholder. – The person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.
- (23) State, when referring to a part of the United States. – Includes a state and commonwealth and their agencies and governmental subdivisions and a territory and insular possession and their agencies and governmental subdivisions of the United States.
- (24) Subscriber. – A person who subscribes for shares in a corporation, whether before or after incorporation.
- (24a) Unincorporated entity. – A domestic or foreign limited liability company, a domestic or foreign limited partnership, a registered limited liability partnership or foreign limited liability partnership as defined in G.S. 59-32, or any other partnership as defined in G.S. 59-36, whether or not formed under the laws of this State.
- (25) United States. – Includes district, authority, bureau, commission, department, and any other agency of the United States.
- (25a) Veteran. – An individual entitled to any benefits or rights under the laws of the United States by reason of service in the Armed Forces of the United States.
- (25b) Veteran-owned small business. – A business that satisfies both of the following requirements:
 - a. The business's net annual receipts do not exceed one million dollars (\$1,000,000).
 - b. One or more veterans own more than fifty percent (50%) of the business.
- (26) Voting group. – All shares of one or more classes or series that under the articles of incorporation or this Chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this Chapter to vote generally on the matter are for that purpose a single voting group. (1955, c. 1371, s. 1; 1959, c. 1316, s. 1; 1989, c. 265, s. 1; 1989 (Reg. Sess., 1990), c. 1024, s. 12.4; 1993, c. 552, s. 4; 1999-369, ss. 1.2, 1.3; 1999-456, s. 3; 2001-358, s. 5(a); 2001-387, ss. 3, 4, 5, 173, 175(a); 2001-413, s. 6; 2001-487, s. 62(a); 2013-157, s. 3; 2017-90, s. 1(a); 2017-102, s. 14.2(a); 2018-45, s. 33.1; 2023-130, s. 1(a).)