

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 237
SENATE BILL 408

AN ACT TO ALLOW EQUITY LINE OF CREDIT AGREEMENTS TO HAVE TERMS GREATER THAN FIFTEEN YEARS AND TO ESTABLISH A PROCEDURE FOR EXTENDING EQUITY LINE OF CREDIT LOAN AGREEMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-81(a)(1) reads as rewritten:

"(1) At any time within a specified period not to exceed ~~15~~30 years the borrower may request and the lender is obligated to provide, by honoring negotiable instruments drawn by the borrower or otherwise, advances up to an agreed aggregate limit;"

Sec. 2. Article 9 of Chapter 45 of the General Statutes is amended by adding a new section to read:

"§ 45-82.1. Extension of period for advances.

(a) The period for advances agreed to pursuant to G.S. 45-81(a)(1) may be extended by written agreement of the lender and borrower executed prior to termination of the equity line of credit or the borrower's obligation to repay any outstanding indebtedness. Any extended period shall not exceed 30 years from the end of the preceding period for advances.

(b) A mortgage or deed of trust that secures an equity line of credit to which the lender and borrower have agreed to an extended period for advances shall have priority with respect to advances made after the preceding loan period from a date not later than the date of registration of the certificate described in subsection (c) of this section.

(c) The priority provided in subsection (b) of this section shall be accorded only if the grantor of the mortgage or the deed of trust securing the obligation, and other record owners of the real property therein conveyed, execute a certificate evidencing the extension and register the certificate in the office of the register of deeds where the mortgage or deed of trust is registered. The failure of any record owner to execute the certificate shall affect only that record owner's interest in the property, and executions by other owners shall have full effect to the extent of their interests in the property. For purposes of this section, the term 'record owner' means any person owning a present or future interest of record in the real property which would be affected by the lien of the mortgage or deed of trust, but does not mean the trustee in a deed of trust or the owner or holder of a mortgage, deed of trust, mechanic's or materialman's lien, or any other lien or security interest in the real property.

(d) The certificate described in subsection (c) of this section may be in any form that fulfills the requirements of subsection (c) of this section, including the following:

'Certificate of Extension of Period for Advances Under Home Equity Line of Credit

Please take notice that the borrower and lender under the home equity line of credit secured by the (deed of trust) (mortgage) recorded on _____ in Book _____, at Page _____, records of this County, have agreed to extend the period within which the borrower may request advances as set forth in G.S. 45-82.1. The borrower's obligations to repay advances and related undertakings are secured by the (deed of trust) (mortgage).

WITNESS the signatures and seals of the undersigned, this _____ day of _____.

(SEAL)
(Grantor (s))

(SEAL)
Other record owner(s)

(SEAL)
(Mortgagee or Beneficiary)

(Acknowledgment as required by law)."

Sec. 3. This act becomes effective October 1, 1995.

In the General Assembly read three times and ratified this the 13th day of June, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives