

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 207
SENATE BILL 156

AN ACT TO AMEND CHAPTERS 24 AND 45 TO PROVIDE FOR EQUITY LINES
OF CREDIT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 24 of the General Statutes is amended by adding after G.S. 24-1.2 a new section to read:

"§ 24-1.2A. **Equity lines of credit.** – Notwithstanding any other provision of this Chapter, the parties to an equity line of credit, as defined in G.S. 45-81, may contract in writing for interest at rates which shall not exceed the maximum rates permitted under G.S. 24-1.2(2a); provided, however, that the parties may contract for interest rates which shall be adjustable or variable, so long as for adjustable or variable rate contracts the rate in effect for a given period does not exceed the maximum rate permitted under G.S. 24-1.2(2a) for the same period. Fees may be charged on equity lines of credit which in the aggregate, over the life of the contract based on the maximum limit of the line of credit, do not exceed those permitted under G.S. 24-10."

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

"ARTICLE 9.

"Instruments to secure equity lines of credit.

"§ 45-81. **Definition.** – (a) The term 'equity line of credit' means an agreement in writing between a lender and a borrower for an extension of credit pursuant to which:

- (1) At any time within a specified period not to exceed 15 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;
- (2) Any repayments of principal by the borrower within the specified period will reduce the amount of advances counted against the aggregate limit; and
- (3) The borrower's obligation to the lender is secured by a mortgage or deed of trust relating to real property which mortgage or deed of trust shows on its face the maximum principal amount which may be secured at any one time and that it secures an equity line of credit governed by the provisions of this Article.

(b) As used in subdivision (a)(1) of this section, 'lender is obligated' means that the lender is contractually bound to provide advances. The contract must set forth any events of default by the borrower, or other events not within the lender's control, which

may relieve the lender from his obligation, and must state whether or not the lender has reserved the right to cancel or terminate the obligation.

(c) At any time when the balance of all outstanding sums secured by a mortgage or deed of trust pursuant to the provisions of this Article is zero, the lender shall, upon the request of the borrower, make written entry upon the security instrument showing payment and satisfaction of the instrument; provided, however, that such security instrument shall remain in full force and effect for the term set forth therein absent the borrower's request for such written entry. No prepayment penalty may be charged with respect to an equity line of credit loan.

"§ 45-82. Priority of security instrument. – A mortgage or deed of trust which shows on its face that it secures an equity line of credit governed by the provisions of this Article, shall, from the time of its registration, have the same priority to the extent of all advances secured by it as if the advances had been made at the time of the execution of the mortgage or deed of trust, notwithstanding the fact that from time to time during the term of the loan no balance is outstanding. Payments made by the lender for insurance, taxes, and assessments and other payments made by the lender pursuant to the deed of trust shall have the same priority as if made at the time of the execution of the mortgage or deed of trust, notwithstanding the maximum principal amount set forth in the mortgage or deed of trust.

"§ 45-83. Future advances statute shall not apply. – The provisions of Article 7 of this Chapter shall not apply to an equity line of credit or the instrument securing it, if the instrument shows on its face that it secures an equity line of credit governed by the provisions of this Article.

"§ 45-84. Article not exclusive. – Except as otherwise provided in G.S. 45-83, the provisions of this Article are not exclusive, and no mortgage or deed of trust which secures a line of credit or other obligation shall be invalidated by failure to comply with the provisions of this Article."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of May, 1985.