

§ 45-82.3. Notice regarding future advances.

(a) A notice regarding future advances may be submitted to a lender by an authorized person, an owner of the property, or a qualified lien holder.

(b) Except as provided in subsection (c) of this section, an advance made by a lender to a borrower pursuant to an equity line of credit will not be secured by the related equity line security instrument if the advance occurs after the lender receives and has had not less than one complete business day to act on a notice regarding future advances.

(c) Notwithstanding a lender's receipt of a notice regarding future advances, the following shall be secured by the equity line security instrument and shall have the same priority as if they had been owing, accrued, paid, advanced, or incurred at the time the equity line security instrument was registered:

- (1) Sums owing to the lender under the equity line of credit at the time the lender receives the notice regarding future advances (including accrued interest), all interest that thereafter accrues on the equity line of credit, and all payments made, sums advanced, and expenses incurred by the lender before or after the lender receives the notice regarding future advances (i) for insurance, taxes, and assessments, (ii) to protect the lender's interest under the equity line security instrument, or (iii) to preserve and protect the value or condition of the real property encumbered by the equity line security instrument.
- (2) Any advance made by the lender to a borrower pursuant to an equity line of credit that occurs within one complete business day after the lender receives the notice regarding future advances.
- (3) Any advance made by the lender to a borrower pursuant to an equity line of credit that occurs more than one complete business day after the lender receives the notice regarding future advances, but only if the advance was initiated or approved before the lender received the notice regarding future advances.

(d) Receipt by a lender of a notice regarding future advances shall be conclusively deemed to be an action by the borrower adversely affecting the lender's security for the equity line of credit. Upon receipt of a notice regarding future advances, the lender may terminate the borrower's right and ability to obtain additional advances under the equity line of credit.

(e) No particular phrasing is required for a notice regarding future advances. The following form, when properly completed, is sufficient to serve as a notice regarding future advances:

"NOTICE REGARDING FUTURE ADVANCES
(G.S. 45-82.3)

To: (name of lender)

This is a notice regarding future advances submitted pursuant to G.S. 45-82.3. For purposes of this notice:

1. The borrower(s) is/are: (identify borrower(s))
2. The account number of the equity line of credit is: (specify the account number of the equity line of credit, if known by the person submitting the notice)
3. The street address of the property is: (provide the street address of the property encumbered by the security instrument identified in 4.)
4. The equity line of credit is secured by the security instrument identified as follows:
Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)
Original Grantor(s): (identify original grantor(s), trustor(s), or mortgagor(s))

Original Secured Party(ies): (identify the original beneficiary(ies), mortgagee(s), or secured party(ies) in the security instrument)

Recording Data: The security instrument is recorded in Book ____ at Page ____ or as document number _____ in the office of the Register of Deeds for _____ County, North Carolina.

Except as provided in G.S. 45-82.3(c), subsequent advances made by you under the equity line of credit will not be secured by the security instrument identified above.

I certify that I am:

- The borrower (or one of the borrowers, if there is more than one).
- The legal representative of a borrower.
- The attorney for a borrower.
- An owner of the property encumbered by the security instrument identified above.
- A title insurance company that satisfies the requirements of G.S. 45-81(1).
- An attorney licensed to practice law in the State of North Carolina that satisfies the requirements of G.S. 45-81(1).
- A bank, savings and loan association, savings bank, or credit union that satisfies the requirements of G.S. 45-81(1).
- A qualified lien holder as defined in G.S. 45-81(9).

Date: _____

Signature of person submitting the request"

(f) If the person who gives a lender a notice regarding future advances is (i) a title insurance company described in G.S. 45-81(1); (ii) an attorney, bank, savings and loan association, savings bank, or credit union described in G.S. 45-81(1), (iii) an owner as defined in G.S. 45-81(7), other than an owner who is also a borrower, or (iv) a qualified lien holder described in G.S. 45-81(9), then that person shall give a copy of the notice regarding future advances to the borrower accompanied by a notice that provides substantially as follows:

"NOTICE TO BORROWER

You have an equity line of credit with (name of lender) secured by a mortgage or deed of trust on real property located at (address of property).

As permitted by North Carolina law, we are sending the (enclosed/attached/following/foregoing) Notice Regarding Future Advances to your lender. Subject to certain exceptions, the notice prevents any new credit advances you obtain under your equity line of credit from being secured by the mortgage or deed of trust that currently secures its repayment. Our reason for giving your lender the notice is to limit the amount secured by the mortgage or deed of trust that secures your equity line of credit and to prevent that amount from increasing.

When your lender receives our notice, your lender may elect to terminate your right and ability to obtain additional advances under your equity line of credit. However, termination of your right and ability to obtain additional advances will not release you from liability for the account. You should contact your lender to determine whether you will be able to obtain additional credit advances from your lender.

If you have questions about this notice or our action, please contact (name of contact person or department) by calling us at (phone number) or writing to us at (mailing address).

(Name of insurance company, attorney, bank, savings and loan association, savings bank, credit union, owner, or qualified lien holder)". (2011-312, s. 24.)