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SBA Disaster Loan Program: Frequently Asked Questions

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Committees of Congress

Summary

This report responds to frequently asked questions about the Small Business Administration (SBA) Disaster Loan Program. The SBA Disaster Loan Program provides direct *loans* to help businesses, nonprofit organizations, homeowners, and renters repair or replace property damaged or destroyed in a federally declared disaster. The program is also designed to help small agricultural cooperatives recover from economic injury resulting from a disaster. SBA disaster loans include (1) Home and Personal Property Disaster Loans, (2) Business Physical Disaster Loans, and (3) Economic Injury Disaster Loans (EIDL). Most direct disaster loans (approximately 80%) are awarded to individuals and households rather than small businesses. The program generally offers low-interest disaster loans at a fixed rate with loan maturities of up to 30 years.

Key issues of interest to Congress include:

- how the program is put into effect,
- how much Congress appropriates to the program,
- what types of loans are available to businesses and homeowners,
- the use of SBA disaster loans in conjunction with insurance,
- loan interest rates and terms for SBA disaster loans,
- eligible activities,
- loan processing times, and
- collateral requirements.

For additional information on Small Business Administration Disaster Loan Program, see CRS Report R41309, *The SBA Disaster Loan Program: Overview and Possible Issues for Congress*, by Bruce R. Lindsay.

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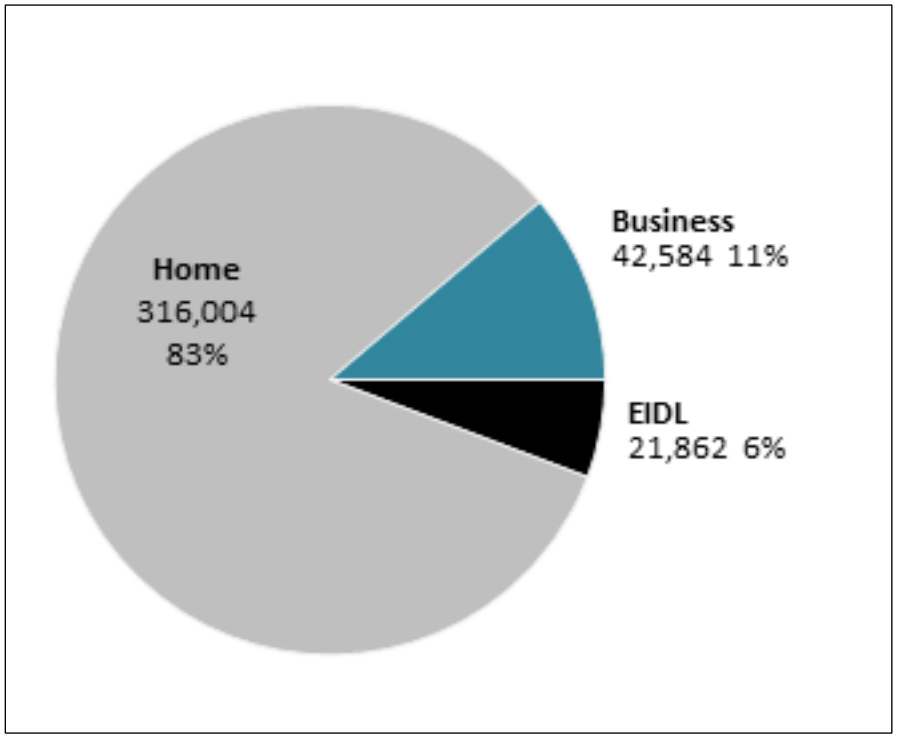
Introduction

This report responds to frequently asked questions about the Small Business Administration (SBA) Disaster Loan Program. Authorized by the Small Business Act, the SBA Disaster Loan Program has been a source of economic assistance to businesses, nonprofit organizations, homeowners, and renters as they repair or replace property damaged or destroyed in a federally declared disaster.[1] The SBA Disaster Loan Program is also designed to help small agricultural cooperatives recover from economic injury resulting from a disaster. SBA disaster loans include (1) Home and Personal Property Disaster Loans, (2) Business Physical Disaster Loans, and (3) Economic Injury Disaster Loans (EIDL). As demonstrated in **Figure 1** and **Figure 2**, most direct disaster loans (approximately 83%) are awarded to individuals and households rather than small businesses. The program generally offers low-interest disaster loans at a fixed rate that have loan maturities of up to 30 years.

Figure 1. Disbursed SBA Disaster Loans by Type, FY2000-FY2014

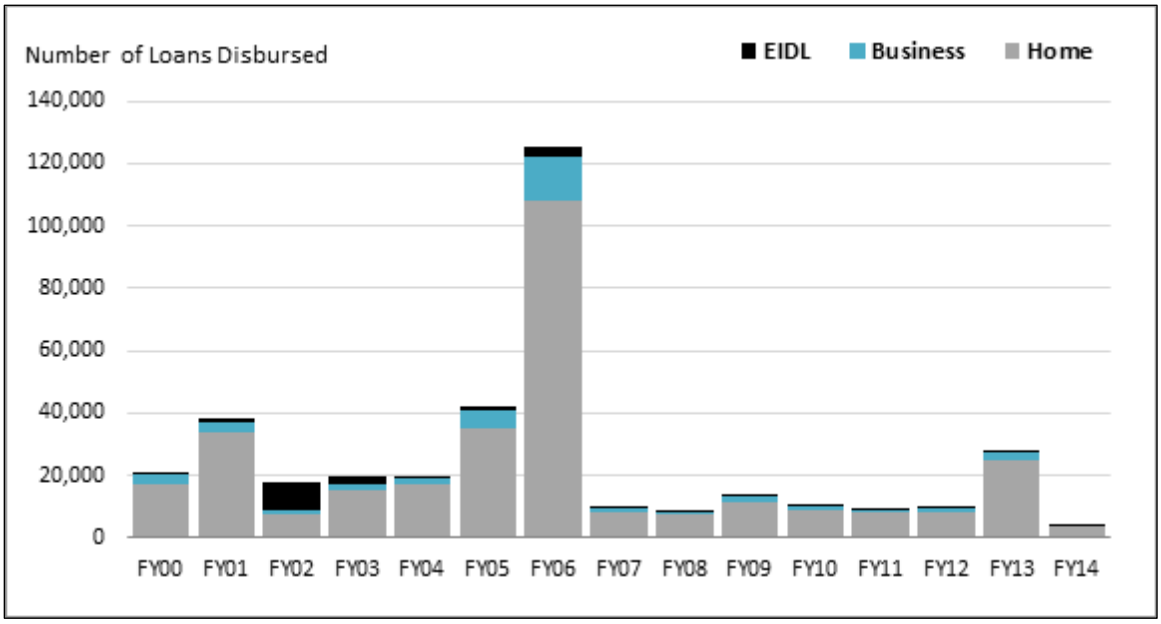


Source: Data provided by SBA and available from the CRS author to congressional clients upon request.

Note: Figures have been rounded. EIDL= Economic Injury Disaster Loans.

[1] 13 C.F.R. §123.3.

Figure 2. Disbursed SBA Disaster Loans by Type and Fiscal Year, FY2000-FY2014



Source: Data provided by SBA and available from the CRS author to congressional clients upon request.

Note: Figures have been rounded. EIDL= Economic Injury Disaster Loans.

SBA Disaster Loan Program: General Information and Questions

How Is the Program Put into Effect?

There are five ways in which the SBA Disaster Loan Program can be put into effect. These include two types of presidential declarations as authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act)[2] and three types of SBA declarations.[3] While the type of declaration may determine what types of loans are made available, declaration type has no bearing on loan terms or loan caps. The SBA Disaster Loan Program becomes available when:

1. The President issues a major disaster declaration, or an emergency declaration, and authorizes both Individual Assistance (IA) and Public Assistance (PA) under the authority of the Stafford Act.[4] When the President issues such a declaration,

[2] P.L. 93-288, 42 U.S.C. §5721 et seq. For further analysis of Stafford Act declarations, see CRS Report CRS Report R43784, *FEMA's Disaster Declaration Process: A Primer*, by Francis X. McCarthy; and CRS Report R42702, *Stafford Act Declarations 1953-2014: Trends, Analyses, and Implications for Congress*, by Bruce R. Lindsay and Francis X. McCarthy.

[3] Disaster declarations are published in the *Federal Register*. A list of current disaster declarations and can be found on the SBA website at https://www.sba.gov/content/current-disaster-declarations.

[4] Administered by FEMA, Individual Assistance (IA) includes various forms of help for families and individuals following a disaster event. The assistance authorized by the Stafford Act can include housing assistance, disaster unemployment assistance, crisis counseling, and other programs intended to address people's needs. Public Assistance (PA) provides various categories of assistance to state and local governments and nonprofit organizations. Principally,

SBA disaster loans become available to homeowners, renters, businesses of all sizes, and nonprofit organizations located within the disaster area. Economic Injury Disaster Loans (EIDL) may also be made for survivors in contiguous counties or other political subdivisions.

2. The President makes a major disaster declaration or emergency declaration that only provides the state with PA. In such a case, a private nonprofit entity located within the disaster area that provides noncritical services may be eligible for a physical disaster loan and EIDL.[5] It is important to note that Home Physical Disaster Loans and Personal Property Loans are not made available to renters and homeowners under this type of declaration. Additionally, Business Physical Disaster Loans, and EIDLs are generally not made available to businesses (unless they are a private nonprofit entity) if the declaration only provides PA.
3. The SBA Administrator issues a physical disaster declaration in response to a gubernatorial request for assistance.[6] When the SBA Administrator issues this type of declaration, SBA disaster loans become available to eligible homeowners, renters, businesses of all sizes, and nonprofit organizations within the disaster area or contiguous counties and other political subdivisions.
4. The SBA Administrator may make an EIDL declaration when SBA receives a certification from a state governor that at least five small businesses have suffered substantial economic injury as a result of a disaster. This declaration is offered only when other viable forms of financial assistance are unavailable. Small agricultural cooperatives and most private nonprofit organizations located within the disaster area or contiguous counties and other political subdivisions are eligible for SBA disaster loans when the SBA Administrator issues an EIDL declaration.
5. The SBA Administrator may issue a declaration for EIDL loans based on the determination of a natural disaster by the Secretary of Agriculture.[7] These loans are available to eligible small businesses, small agricultural cooperatives, and most private nonprofit organizations within the disaster area, or contiguous counties and other political subdivisions. Additionally, the SBA administrator may issue a declaration based on the determination of the Secretary of Commerce that a fishery resource disaster or commercial fishery failure has occurred.[8]

PA covers the repair or replacement of infrastructure (roads, bridges, public buildings, etc.), but it also includes debris removal and emergency protective measures, which cover additional costs incurred by local public safety groups through their actions in responding to the disaster. FEMA's PA program provides assistance only to public and nonprofit entities. For more information on FEMA's PA program see CRS Report R43990, *FEMA's Public Assistance Grant Program: Background and Considerations for Congress*, by Jared T. Brown and Daniel J. Richardson.

[5] In order to receive FEMA grant assistance, these entities must first have applied for an SBA disaster loan and must have been deemed ineligible or must have received the maximum amount of assistance from SBA before seeking grant assistance from FEMA.

[6] The criteria used to determine whether to issue a declaration include a minimum amount of uninsured physical damage to buildings, machinery, inventory, homes, and other property. Generally, this minimum is at least 25 homes or businesses (or some combination of the two) that have sustained uninsured losses of 40% or more in any county or other smaller political subdivision of a state or U.S. possession. See 13 C.F.R. §123.3(3)(ii) and 13 C.F.R. §123.3(3)(iii).

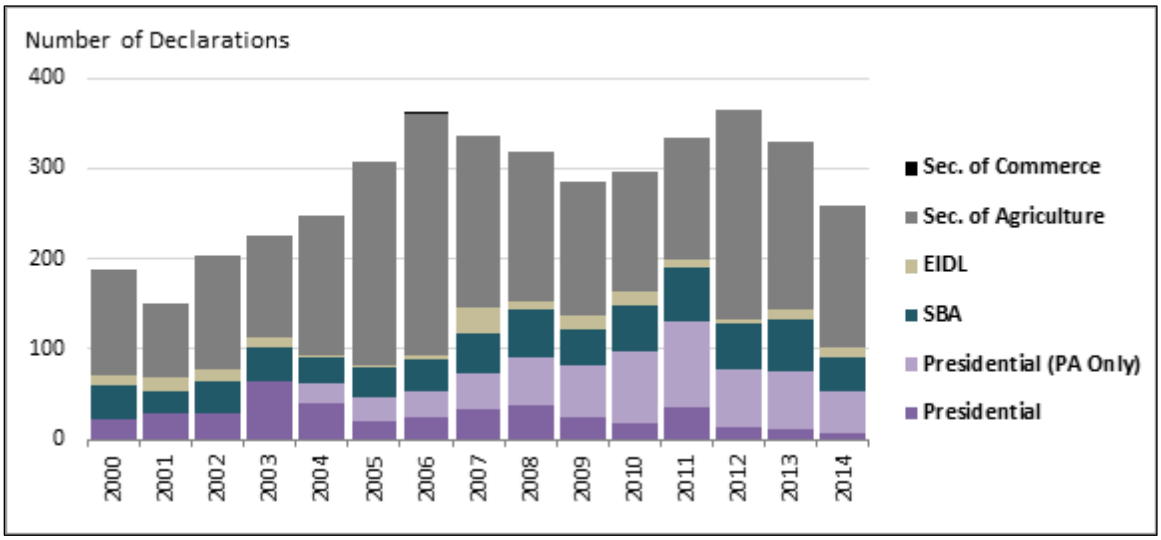
[7] 13 C.F.R. §123.3(4).

[8] 15 U.S.C. §632(k)(1).

How Many Declarations Are Issued by Type?

As demonstrated by **Figure 3,** from calendar year 2000 to 2014, the Secretary of Agriculture issued the greatest number of declarations (58%). The SBA issued 15% of the declarations for the period. Presidential declarations for PA and presidential declarations for IA *and* PA were 14% and 10% respectively. EIDL declarations account for 15% of the declarations issued during this period. The fewest declarations issued were based on the determination of the Secretary of Commerce (only two were issued during the time period).

Figure 3. Declaration by Type, Calendar Years 2000-2014



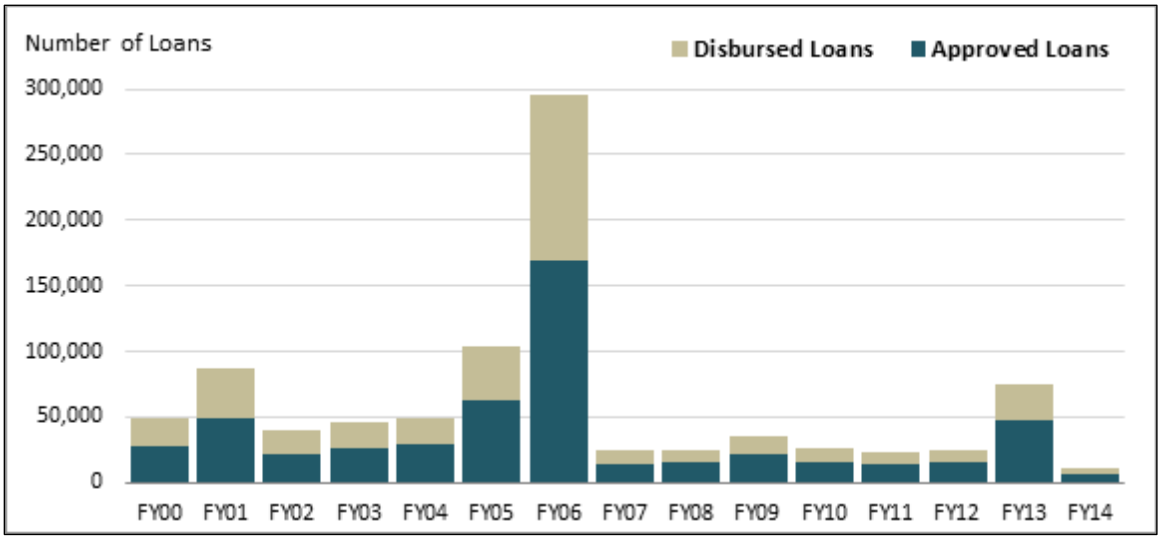
Source: Data provided by SBA and available from the CRS author to congressional clients upon request.

Note: Figures have been rounded.

What Is the Difference Between Loan Approvals and Loan Disbursements?

Loan approvals are often used in performance reviews and budget justifications. Some might argue that loan disbursals more accurately reflect program usage because not all approved applicants accept the loans. From 2000 to 2014, approximately 72% (380,450 loans) of approved disaster loans during the time period, amounting to roughly $15.5 billion, were actually disbursed to businesses and households. **Figure 4** displays the percent of all approved loans that were disbursed each year.

Figure 4. SBA Disaster Loan Approvals, and Disbursements, FY2000-FY2014



Source: Data provided by SBA and available from the CRS author to congressional clients upon request.

Note: Figures have been rounded.

Can Disaster Loans Be Used in Conjunction with Insurance or Other Types of Assistance?

Disaster loans may be used in conjunction with other types of assistance including insurance but only to the extent to which there is no duplication of assistance. Section 312 of the Stafford Act requires federal agencies providing disaster assistance to ensure that businesses and individuals do not receive disaster assistance for losses for which they have already been compensated. An individual receiving federal assistance for a major disaster is liable to the United States when the assistance duplicates benefits provided for the same purpose.

FEMA regulation 44 C.F.R. 206.191 establishes policies and procedural guidance to ensure uniformity in preventing duplication of benefits, including a "delivery sequence" of disaster assistance provided by volunteer organizations and certain federal agencies. According to the regulation, the agency or organization that is lower in the delivery sequence should not provide assistance that duplicates assistance provided by a higher level agency or organization.

SBA regulation 13 C.F.R. 123.101(c) prohibits applicants from receiving a home disaster loan if their damaged property can be repaired or replaced with the proceeds of insurance, gifts, or other compensation. These amounts must either be deducted from the amount of the claimed losses or, if received after SBA has approved and disbursed a loan, must be paid to SBA as principal payments on their loans.

Can Loans Be Issued Before the Insurance Settlement?

SBA can approve and disburse a loan for the total replacement cost up to specified lending limits.[9] However, if there is a duplication of benefits after the insurance settles, those funds are applied to the balance of the disaster loan.

[9] Personal property loans provide up to $40,000. Home Physical Disaster Loans provide up to $200,000, and Business Physical Disaster Loans and EIDLs provide up to $2 million.

What Forms of Collateral Are Needed for Disaster Loans?

SBA will not require collateral to secure a business or home disaster loan of $25,000 or less. In general, SBA will not decline a loan when inadequacy of collateral is the only unfavorable factor in a disaster loan application and SBA is reasonably sure that the applicant can repay the loan. SBA may decline or cancel loans for applicants who refuse to pledge available collateral.

What Are SBA Loan Processing Times for Disaster Loans?

SBA uses approximate processing standards based on tiered levels of application volumes for all disaster loans: two to three weeks for less than 50,000 applications per year (level I); three to four weeks for 50,001-250,000 applications per year (level II); four-plus weeks for more than 250,000 applications per year (level III); and more than four-plus weeks for more than 500,000 applications per year (level IV).[10]

According to SBA, the percent of disaster loans processed according to the tiered standard performance goal was 100% in FY2010, 100% in FY2011, 95% in FY2012, 55% in FY2013, and 100% in FY2014. SBA noted that its lower performance in FY2013 was largely due to increased loan volumes following Hurricane Sandy. A July 2015 SBA Office of Inspector General study found that SBA's processing time for home disaster loans averaged 18.7 days and application processing times for business disaster loans averaged 43.3 days.[11]

How Much Does Congress Annually Appropriate to the SBA Disaster Loan Program?

Congress generally appropriates funds to the SBA Disaster Loan Program through annual appropriations. In some cases, after large-scale disasters (such as Hurricanes Katrina and Sandy), Congress has appropriated additional funds for the program through supplemental appropriations. It is not uncommon for Congress to carry funds left over from these supplemental appropriations to the next fiscal year and forego an annual appropriation (see **Table 1**). As shown in **Table 1**, from FY2005 to FY2015 the average annual appropriation to the SBA Disaster Loan Program was $120 million. The average supplemental appropriation for the same time period was $623 million. Combined, Congress has appropriated $4.1 billion—a yearly average of $408 million—to the program from FY2005 to FY2015.

[10] U.S. Small Business Administration, *FY2016 Congressional Budget Justification and FY2014 Annual Performance Report*, p. 87, available at https://www.sba.gov/sites/default/files/files/1-FY_2016_CBJ_FY_2014_APR_508.pdf.

[11] U.S. Small Business Administration, Office of Inspector General, Hurricane Sandy Expedited Loan Processes, Audit Report No. 15-13, July 13, 2015, p. 4, available at https://www.sba.gov/sites/default/files/oig/Audit_Report_15-13_Sandy_Expedited_Processes.pdf.

Table 1. SBA Disaster Loan Program: Annual Appropriations, FY2005-FY2015

dollars in thousands

Fiscal Year	Annual Appropriation	Amount	Supplemental Appropriation	Amount	Total
2005	P.L. 108-447	$113,000	P.L. 108-324	$501,000	$614,000
2006			P.L. 109-148 & P.L. 109-234	$988,000	$988,000
2007	P.L. 110-5	$115,000	P.L. 110-28	$181,000	$296,000
2008			P.L. 110-329, & P.L. 110-252	$663,000	$663,000
2009					
2010	P.L. 111-117	$78,000			$78,000
2011	P.L. 112-10	$45,000			$45,000
2012	P.L. 112-74	$117,000			$117,000
2013	P.L. 113-6	$117,000	P.L. 113-2	$780,000	$897,000
2014	P.L. 113-76	$192,000			$192,000
2015	P.L. 113-235	$187,000			$187,000
Total		**$964,000**		**$1,651,000**	**$4,077,000**

Source: Annual appropriations data provided by SBA and available to congressional clients from the CRS author upon request. Supplemental appropriations data derived, in part, from CRS analysis of supplemental appropriations after disasters.

Note: Figures have been rounded. Amounts do not include rescissions or transfers or funding for administrative costs and SBA Office of Inspector General. The annual appropriation for FY2010 includes a credit subsidy of $1,690 million.

Home Physical and Personal Property Disaster Loans

What Type of Loans Are Available to Individuals and Households?

Disaster loans provided to individuals and households in declared disaster areas fall into two categories: Personal Property Loans and Real Property Loans. A Personal Property Loan provides a creditworthy homeowner or renter located in a declared disaster area with up to $40,000 to repair or replace personal property owned by the survivor. Real Property Loans provide creditworthy homeowners located in a declared disaster area with up to $200,000 to repair or restore the homeowner's primary residence to its pre-disaster condition.[12] However, the amount SBA will lend depends on the cost of repairing or replacing the home and/or personal property (minus insurance settlements or grant assistance).

What Can Personal Property Loans Be Used for?

Personal Property Loans cover only uninsured or underinsured property and primary residences in a declared disaster area. Personal Property Loans can be used to repair or replace clothing,

[12] 13 C.F.R. §123.105(a)(2).

furniture, cars, or appliances damaged or destroyed in the disaster. Eligibility of luxury items with functional use, such as antiques and rare artwork, is limited to the cost of an ordinary item meeting the same functional purpose.

What Can Real Property Loans Be Used for?

Only uninsured or otherwise uncompensated disaster losses are eligible for loan assistance. The loans may not be used to upgrade a home or build additions to the home, unless the upgrade or addition is required by city or county building codes. Secondary homes or vacation properties are not eligible for Real Property Loans.[13] Repair or replacement of landscaping and/or recreational facilities cannot exceed $5,000. A homeowner may borrow funds to cover the cost of improvements to protect their property against future damage (e.g., retaining walls, sump pumps, etc.). In some cases, SBA loans can be used to refinance all or part of a previous mortgage when the applicant does not have credit available elsewhere, has suffered substantial disaster damage not covered by insurance, and intends to repair the damage. SBA considers refinancing when processing each application. In addition, loan recipients can use loan money to pay their insurance deductible.[14]

Can Real Property Loans Be Used for Mitigation?

A homeowner may borrow funds to cover the cost of improvements to protect their property against future damage (e.g., safe rooms or similar structures designed to protect occupants from natural disasters, retaining walls, sump pumps, etc.). Mitigation funds may not exceed 20% of the disaster damage, as verified by SBA, to a maximum of $200,000 for home loans.[15]

What Are the Interest Rates and Terms for Personal Property Loans and Real Property Loans?

Interest rate ceilings are statutorily set at 8% per annum or 4% per annum if the applicant is unable to obtain credit elsewhere.[16] Generally, borrowers pay equal monthly installments of principal and interest, beginning five months from the date of the loan. The loans can have maturities up to 30 years.

What Forms of Collateral Are Needed for Home Disaster Loans?

SBA will not require collateral to secure a physical disaster home loan of $25,000 or less. In general, SBA will not decline a loan when inadequacy of collateral is the only unfavorable factor in a disaster loan application and SBA is reasonably sure that the applicant can repay the loan. SBA may decline or cancel loans for applicants who refuse to pledge available collateral.

[13] Qualified rental properties may be eligible for assistance under SBA's business loan program.

[14] U.S. Small Business Administration, *Standard Operating Procedure: Disaster Assistance Program*, 50 30 8, July 1, 2015, p. 96, at https://www.sba.gov/sites/default/files/sops/SOP_50_30_8_Final.pdf.

[15] 13 C.F.R. §123.107.

[16] SBA determines whether an applicant has credit available elsewhere.

Business Disaster Loans

What Type of Loans are Available to Businesses?

SBA offers loans to help businesses repair and replace damaged property and financial assistance to businesses that have suffered economic loss as a result of a disaster. Disaster loans provided to businesses fall into two categories: Business Physical Disaster Loans and EIDLs.

What Types of Organizations Are Eligible for Business Physical Disaster Loans?

Any business, regardless of size (other than an agricultural enterprise),[17] and private, nonprofit organizations located in a declared disaster area may be eligible for a Business Physical Disaster Loan.

What Can Business Physical Disaster Loans be Used For?

Business Physical Disaster Loans provide up to $2 million to repair or replace damaged physical property including machinery, equipment, fixtures, inventory, and leasehold improvements that are not covered by insurance.[18] Damaged vehicles normally used for recreational purposes may be repaired or replaced with SBA loan proceeds if the borrower can submit evidence that the vehicles were used for business purposes.

Can Business Physical Disaster Loans Be Used for Mitigation?

Businesses may utilize up to 20% of the verified loss amount for mitigation measures (e.g., grading or contouring of land, relocating or elevating utilities or mechanical equipment, building retaining walls, safe rooms or similar structures designed to protect occupants from natural disasters, or installing sewer backflow valves) in an effort to prevent loss should a similar disaster occur in the future.

What Are the Interest Rates and Terms for Business Physical Disaster Loans

Interest rates for Business Physical Disaster Loans cannot exceed 8% per annum or 4% per annum if the business cannot obtain credit elsewhere.[19] Borrowers generally pay equal monthly installments of principal and interest starting five months from the date of the loan. Business Physical Disaster Loans can have maturities up to 30 years.

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[17] 13 C.F.R. §123.201(a). An agricultural enterprise is a business "primarily engaged in the production of food and fiber, ranching and raising of livestock, aquaculture and all other farming and agriculture-related industries." The U.S. Department of Agriculture (USDA) offers several programs to help farmers recover financially from natural disasters, including drought and floods. See CRS Report RS21212, *Agricultural Disaster Assistance*, coordinated by Megan Stubbs, for more information.

[18] Leasehold is a fixed asset and gives the right to hold or use property for a fixed period of time at a given price, without transfer of ownership, on the basis of a lease contract. SBA may waive the $2 million cap if the business is a main source of employment. See 13 C.F.R. §123.202.

[19] 13 C.F.R. §123.203(a).

What can Economic Injury Disaster Loans be Used For

EIDLs provide up to $2 million to help meet financial obligations and operating expenses that could have been met had the disaster not occurred. Loan proceeds can only be used for working capital necessary to enable the business or organization to alleviate the specific economic injury and to resume normal operations. Loan amounts for EIDLs are based on actual economic injury and financial needs, regardless of whether the business suffered any property damage.

What Businesses Are Eligible for Economic Injury Disaster Loans?

EIDLs are available only to businesses that are located in a declared disaster area, have suffered substantial economic injury, are unable to obtain credit elsewhere, and are defined as small by SBA size regulations.[20] Size standards vary according to a variety of factors including industry type, average firm size, and start-up costs and entry barriers.[21] Small agricultural cooperatives and most private and nonprofit organizations that have suffered substantial economic injury as the result of a declared disaster are also eligible for EIDLs.

Can a Business Secure an EIDL and a Business Physical Disaster Loan?

Businesses can secure both an EIDL and a Business Physical Disaster loan to rebuild, repair, and recover from economic loss. The loan amount cannot exceed $2 million.

What Are the Interest Rates and Terms for EIDLs?

Interest rate ceilings are statutorily set at 4% per annum or less and loans can have maturities up to 30 years.

What Forms of Collateral are Needed for Business Disaster Loans?

Collateral requirements vary by declaration type. In presidential declarations, Business Physical Disaster Loans over $25,000 must be secured to the extent possible. For agency declarations, Business Physical Disaster Loans over $25,000 must be secured to the extent possible.

The SBA administrator is prohibited from requiring businesses to use their personal residence as collateral for loans under $200,000 if the applicant has other collateral, including assets related to the operation of the business that is sufficient to cover the value of the loan.

SBA will not require collateral to secure an EIDL of $25,000 or less. All EIDL loans over $25,000 must be secured to the extent possible. SBA takes real estate as collateral when it is available. SBA will not decline a loan for lack of collateral. However, the applicant is required to pledge by what they have available as collateral.

[20] See 13 C.F.R. §123.300 for eligibility requirements.

[21] For further analysis on SBA business size standards, see CRS Report R40860, *Small Business Size Standards: A Historical Analysis of Contemporary Issues*, by Robert Jay Dilger.

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