

(j) Your only interest in the damaged property is in the form of a security interest, mortgage, or deed of trust;

(k) The damaged building, including contents, was newly constructed or substantially improved on or after February 9, 1989, and (without a significant business justification) is located seaward of mean high tide or entirely in or over water; or

(l) You voluntarily decide to relocate outside the business area in which the disaster has occurred, and there are no special or unusual circumstances leading to your decision (business area means the municipality which provides general governmental services to your damaged home or, if not located in a municipality, the county or equivalent political entity in which your damaged home is located).

[61 FR 3304, Jan. 31, 1996, as amended at 67 FR 64519, Oct. 21, 2002]

§ 123.102 What circumstances would justify my relocating?

SBA may approve a loan if you intend to relocate outside the business area in which the disaster has occurred if your relocation is caused by such special or unusual circumstances as:

(a) Demonstrable risk that the business area will suffer future disasters;

(b) A change in employment status (such as loss of job, transfer, lack of adequate job opportunities within the business area or scheduled retirement within 18 months after the disaster occurs);

(c) Medical reasons; or

(d) Special family considerations which necessitate a move outside of the business area.

§ 123.103 What happens if I am forced to move from my home?

If you must relocate inside or outside the business area because local authorities will not allow you to repair your damaged property, SBA considers this to be a total loss and a mandatory relocation. In this case, your loan would be an amount that SBA considers sufficient to replace your residence at your new location, plus funds to cover losses of personal property and eligible refinancing.

§ 123.104 What interest rate will I pay on my home disaster loan?

If you can obtain credit elsewhere, your interest rate is set by a statutory formula, but will not exceed 8 percent per annum. If you cannot obtain credit elsewhere, your interest rate is one-half the statutory rate, but will not exceed 4 percent per annum. Credit elsewhere means that, with your cash flow and disposable assets, SBA believes you could obtain financing from non-federal sources on reasonable terms. If you cannot obtain credit elsewhere, you also may be able to borrow from SBA to refinance existing recorded liens against your damaged real property. Under prior legislation, some SBA disaster loans had split interest rates. On any such loan, repayments of principal are applied first to that portion of the loan with the lowest interest rate.

§ 123.105 How much can I borrow with a home disaster loan and what limits apply on use of funds and repayment terms?

(a) For all disasters occurring on or after October 26, 1993, there are limits on how much money you can borrow for particular purposes:

(1) \$40,000 for repair or replacement of household and personal effects;

(2) \$200,000 for repair or replacement of a primary residence (including upgrading in order to meet minimum standards of safety and decency or current building code requirements). Repair or replacement of landscaping and/or recreational facilities cannot exceed \$5,000;

(3) \$200,000 for eligible refinancing purposes; and

(4) 20 percent of the verified loss (not including refinancing), before deduction compensation from other sources, up to a maximum of \$200,000 (see § 123.107).

(b) You may not use loan proceeds to repay any debts on personal property, secured or unsecured, unless you incurred those debts as a direct result of the disaster.

(c) SBA determines the loan maturity and repayment terms based on your needs and your ability to pay. Generally, you will pay equal monthly installments of principal and interest,

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beginning five months from the date of the loan, as shown on the Note securing the loan. SBA will consider other payment terms if you have seasonal or fluctuating income, and SBA may allow installment payments of varying amounts over the first two years of the loan. The maximum maturity for a home disaster loan is 30 years. There is no penalty for prepayment of home disaster loans.

[61 FR 3304, Jan. 31, 1996, as amended at 75 FR 14332, Mar. 25, 2010]

§ 123.106 What is eligible refinancing?

(a) If your home (primary residence) is totally destroyed or substantially damaged, and you do not have credit elsewhere, SBA may allow you to borrow money to refinance recorded liens or encumbrances on your home. Your home is totally destroyed or substantially damaged if it has suffered uninsured or otherwise uncompensated damage which, at the time of the disaster, is either:

(1) 40 percent or more of the home's market value or replacement cost at the time of the disaster, including land value, whichever is less; or

(2) 50 percent or more of its market value or replacement cost at the time of the disaster, not including land value, whichever is less.

(b) Your home disaster loan for refinancing existing liens or encumbrances cannot exceed an amount equal to the lesser of \$200,000, or the physical damage to your primary residence after reductions for any insurance or other recovery.

§ 123.107 How much can I borrow for post-disaster mitigation for my home?

For mitigation measures implemented after a disaster has occurred, you can request that the approved home disaster loan amount be increased by the lesser of the cost of the mitigation measure, or up to 20 percent of the verified loss (before deducting compensation from other sources), to a maximum of \$200,000.

[75 FR 14332, Mar. 25, 2010]

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§ 123.108 How do the SBA disaster loan program and the FEMA grant programs interact?

After a Presidential disaster declaration is made, you may be eligible for disaster assistance, including grant assistance, from the Federal Emergency Management Agency's (FEMA) Federal Assistance to Individuals and Households Program (IHP). After you register with FEMA for disaster assistance, FEMA will consider you for IHP assistance, which includes housing assistance grants to repair or replace your damaged primary residence and temporary housing assistance (including rental assistance) to assist you temporarily with a place to live, and assistance with personal property, medical, dental and funeral expenses. FEMA may also refer you to SBA to apply for loan assistance to help repair or rebuild your home and/or to replace personal property destroyed during the disaster. If SBA is unable to approve your loan application, or if you have damage in excess of the SBA loan amount, SBA may refer you, on a timely basis, to FEMA for IHP grant consideration to assist with your unmet personal property and transportation needs. If you are approved for the SBA disaster loan and you have received grant assistance that duplicates the damage covered by the SBA loan, such grant assistance must be deducted from your loan eligibility as described in section 123.101(c) of the regulations. All grant decisions are made by FEMA. Additionally, if additional disaster assistance is available from state, local or other agencies, SBA may refer you to the appropriate agency for consideration.

[75 FR 7546, Feb. 22, 2010]

Subpart C—Physical Disaster Business Loans

§ 123.200 Am I eligible to apply for a physical disaster business loan?

(a) Almost any business concern or charitable or other non-profit entity whose real or tangible personal property is damaged in a declared disaster area is eligible to apply for a physical disaster business loan. Your business