

## Small Business Administration

## § 120.398

third of the purchase price or fair market value at the time of the application. A Borrower may use up to 20 percent of the proceeds to acquire land, and up to 5 percent for community improvements such as curbs and sidewalks.

### § 120.395 What is SBA's collateral position?

SBA will require a lien on the building which must be in no less than a second position.

### § 120.396 What is the term of the loan?

The loan must not exceed sixty (60) months plus the estimated time to complete construction or rehabilitation.

### § 120.397 Are there any special restrictions?

The borrower must not use loan proceeds to purchase vacant land for possible future construction or to operate or hold rental property for future rehabilitation. SBA may allow rental of the property only if the rental will improve the ability to sell the property. The sale must be a legitimate change of ownership.

AMERICA'S RECOVERY CAPITAL (BUSINESS STABILIZATION) LOAN PROGRAM—ARC LOAN PROGRAM

### § 120.398 America's Recovery Capital (ARC) Loan Program.

(a) *Purpose.* The purpose of the ARC Loan Program is to enable SBA to guarantee certain loans to viable small businesses that are experiencing immediate financial hardship. Loans made under this loan program are referred to as ARC Loans and are subject to the requirements set forth in this Part for 7(a) loans except as noted in this section.

(b) *Definitions.*

(1) (i) *Eligible Borrower* is a small business concern as defined in Section 3 of the Small Business Act and §120.100. Eligible Borrower does not include:

(A) Ineligible small businesses as listed in §120.110; and

(B) Small business concerns with the following primary industry North

American Industry Classification System (NAICS) codes:

(1) 713210 (Casinos (Except Casino Hotels));

(2) 721120 (Casino Hotels);

(3) 713290 (Other Gambling Industries);

(4) 713910 (Golf Courses and Country Clubs); and

(5) 712130 (Zoos and Botanical Gardens).

(ii) Applications submitted by small business concerns with a primary industry NAICS code of 713940 (Fitness and Recreational Sports Centers) will be identified and reviewed by SBA to determine eligibility in accordance with the statutory restriction on assistance to swimming pools.

(2) *Going Concern* is a small business concern actively engaging in business with the expectation of indefinite continuance.

(3) *Qualifying Small Business Loan* is a loan previously made to an Eligible Borrower for any of the purposes set forth in §120.120 and not for any of the purposes set forth in §120.130 or 120.160(d). Qualifying Small Business Loans may include credit card obligations, capital leases for major equipment and vehicles, notes payable to vendors or suppliers, loans in the first lien position made by commercial lenders in connection with the Development Company Loan Program (504), home equity loans used to finance business operations, other loans to small businesses made without an SBA guaranty, and loans made by or with an SBA guaranty on or after February 17, 2009. Loans made or guaranteed by SBA before February 17, 2009 are not Qualifying Small Business Loans for the purposes of the ARC Loan Program. A Qualifying Small Business Loan may not be used as the basis for more than one ARC Loan but ARC Loans may be used to pay multiple Qualifying Small Business Loans.

(4) *Viable small business* is a small business that is a Going Concern but which is having difficulty making periodic payments of principal and interest on Qualifying Small Business Loan(s) and/or meeting operating expenses of the business although it can reasonably demonstrate its projected continued operation for a reasonable period