beginning five months from the date of the loan, as shown on the Note secur-
ing 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 dis-
aster loans.

§ 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 bor-
row money to refinance recorded liens or encumbrances on your home. Your home is totally destroyed or substan-
tially damaged if it has suffered uninsured or otherwise uncompensated damage which, at the time of the dis-
aster, 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 refi-
nancing existing liens or encumbrances cannot exceed an amount equal to the lesser of $200,000, or the physical dam-
age to your primary residence after re-
ductions for any insurance or other re-
covery.

§ 123.107 How much can I borrow for post-disaster mitigation for my home?
For mitigation measures imple-
mented after a disaster has occurred, you can request that the approved home disaster loan amount be in-
creased 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.

§ 123.108 How do the SBA disaster loan
program and the FEMA grant pro-
grams interact?
After a Presidential disaster declara-
tion is made, you may be eligible for disaster assistance, including grant as-
sistance, from the Federal Emergency Management Agency’s (FEMA) Federal Assistance to Individuals and House-
holds Program (IHP). After you reg-
ister with FEMA for disaster assist-
tance, FEMA will consider you for IHP assistance, which includes housing as-
sistance grants to repair or replace your damaged primary residence and temporary housing assistance (includ-
ing 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 time-
ly basis, to FEMA for IHP grant con-
sideration 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 as-
sistance is available from state, local or other agencies, SBA may refer you to the appropriate agency for consider-
ation.

§ 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 prop-
erty is damaged in a declared disaster area is eligible to apply for a physical disaster business loan. Your business
Small Business Administration § 123.201

(a) You are not eligible for a physical disaster business loan if your business is an agricultural enterprise or if you (or any principal of the business) fit into any of the categories in §123.101. Agricultural enterprise means 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.

(b) Sometimes a damaged business entity (whether in the form of a corporation, limited liability company, partnership, or sole proprietorship) is engaged in both agricultural enterprise and a non-agricultural business venture. If the agricultural enterprise part of your business entity has suffered a physical disaster, that enterprise is not eligible for SBA physical disaster assistance. If the non-agricultural business venture of your entity has suffered physical disaster damage, that part of your business operation would be eligible for SBA physical disaster assistance. If both the agricultural enterprise part and the non-agricultural business venture have incurred physical disaster damage, only the non-agricultural business venture of your business entity would be eligible for SBA physical disaster assistance.

(c) If your business is going to relocate voluntarily outside the business area in which the disaster occurred, you are not eligible for a physical disaster business loan. If, however, the relocation is due to uncontrollable or compelling circumstances, SBA will consider the relocation to be involuntary and eligible for a loan. Such circumstances may include, but are not limited to:

(1) The elimination or substantial decrease in the market for your products or services, as a consequence of the disaster;

(2) A change in the demographics of your business area within 18 months prior to the disaster, or as a result of the disaster, which makes it uneconomical to continue operations in your business area;

(3) A substantial change in your cost of doing business, as a result of the disaster, which makes the continuation of your business in the business area not economically viable;

(4) Location of your business in a hazardous area such as a special flood hazard area or an earthquake-prone area;

(5) A change in the public infrastructure in your business area which occurred within 18 months or as a result of the disaster that would result in substantially increased expenses for your business in the business area;

(6) Your implementation of decisions adopted and at least partially implemented within 18 months prior to the disaster to move your business out of the business area; and

(7) Other factors which undermine the economic viability of your business area.

(d) You are not eligible if your business is engaged in any illegal activity.

(e) You are not eligible if you are a government owned entity (except for a business owned or controlled by a Native American tribe).

(f) You are not eligible if your business presents live performances of a prurient sexual nature or derives directly or indirectly more than de minimis gross revenue through the sale of