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# The SBA Disaster Loan Program: Overview and Possible Issues for Congress


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# Summary

Through its Office of Disaster Assistance (ODA), the Small Business Administration (SBA) has been a major source of assistance for the restoration of commerce and households in areas stricken by natural and human-caused disasters since the agency's creation in 1953. Through its disaster loan program, SBA offers low-interest, long-term loans for physical and economic damages to businesses to help repair, rebuild, and recover from economic losses after a declared disaster. The majority of the agency's disaster loans, however (over 80%) are made to individuals and households (renters and property owners) to help repair and replace homes and personal property.

The three main types of loans for disaster-related losses include (1) Home and Personal Property Disaster Loans, (2) Business Physical Disaster Loans, and (3) Economic Injury Disaster Loans (EIDL). Home Physical Disaster Loans provide up to $200,000 to repair or replace disaster-damaged primary residences. Personal Property Loans provide up to $40,000 to replace personal items such as furniture and clothing. Business Physical Disaster Loans provide up to $2 million to help businesses of all sizes and nonprofit organizations repair or replace disaster-damaged property, including inventory and supplies. Business Physical Disaster Loans and EIDLs also provide assistance to small businesses, small agricultural cooperatives (but not enterprises), and certain private, nonprofit organizations that have suffered substantial economic injury resulting from a physical disaster or an agricultural production disaster. EIDLs provide up to $2 million in financial assistance to businesses located in a disaster area that have suffered economic injury as a result of a declared disaster (regardless if there has been physical damage to the business).

Congressional interest in the Disaster Loan Program has increased in recent years primarily because of concerns about the program's performance in responding to the Gulf Coast hurricanes of 2005 and 2008 as well as Hurricane Sandy in 2012.

This report describes the SBA Disaster Loan Program, including the types of loans available to individuals, households, businesses, and nonprofit organizations, and highlights issues that may be of potential congressional concern. These concerns include SBA loan processing times, the use of personal residences as collateral for business disaster loans, and the implementation of expedited and immediate assistance programs required by Small Business Disaster Response and Loan Improvements Act of 2008.

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# Introduction

For more than 50 years, the Small Business Administration (SBA) Disaster Loan Program has been a source of economic assistance to people and businesses stricken by disasters.[1] Authorized by the Small Business Act,[2] the program provides *direct loans* to help businesses, nonprofit organizations, homeowners, and renters repair or replace property damaged or destroyed in a federally declared or certified disaster. 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). 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.[3] SBA disaster loans have loan maturities of up to 30 years.

This report provides an overview of the Disaster Loan Program, discusses how disaster declarations trigger the SBA loan process, explains the different types of loans potentially available to disaster victims, and discusses terms and restrictions related to each type of loan. The report also provides data on the SBA Disaster Loan Program, including data related to the Gulf Coast hurricanes of 2005 and 2008, and Hurricane Sandy in 2012.[4] This report also examines issues that may be of potential interest to Congress, such as SBA loan processing times, the implementation of expedited and immediate assistance programs required by Small Business Disaster Response and Loan Improvements Act of 2008, and the use of personal residences as collateral for business disaster loans.

# Types of SBA Disaster Loans

The following section describes the types of disaster loans available to homeowners, renters, and businesses, including the amount that can be borrowed, the program's loan terms, and eligibility requirements.

## SBA Disaster Loans Available to Homeowners and Renters

Most SBA disaster assistance (roughly 80%) goes to individuals and households rather than businesses. SBA disaster assistance is provided in the form of loans, not grants, and therefore must be repaid to the federal government. Homeowners, renters, and personal property owners located in a declared disaster area (and in contiguous counties) may apply to SBA for loans to

[1] Declarations and certifications that can trigger SBA's Disaster Loan Program assistance are discussed later in this report under the heading "Types of Declarations." SBA also offers Military Reservist Economic Injury Disaster Loans. These loans are available when economic injury is incurred as a direct result of a business owner or an essential employee being called to active duty. Generally, these loans are not associated with disasters. The policies and regulations of the Disaster Loan Program are contained in Title 13, part 123, of the *Code of Federal Regulations* (C.F.R.) and may be accessed at http://www.ecfr.gov/cgi-bin/text-idx?SID=8dcc1bbb36951d28b32d473433a942f7&mc=true&node=pt13.1.123&rgn=div5.

[2] P.L. 85-536, Section 7(b) 72 Stat. 387, as amended.

[3] The rationale for disbursing disaster loans through SBA rather than FEMA is explained in the Appendix of this of this report.

[4] These are Hurricanes Katrina (August 29, 2005), Rita (September 24, 2005), Wilma (October 24, 2005), Gustav (September 1, 2008), and Ike (September 13, 2008).

help recover losses from the disaster. Disaster loans provided to individuals and households fall into two categories: Personal Property Loans and Real Property Loans.

### Personal 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 victim. Eligible items include furniture, appliances, clothing, and automobiles damaged or lost in a disaster.[5] These loans cover only uninsured or underinsured property and primary residences in a declared disaster area. 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. Interest rates for Personal Property Loans cannot exceed 8% per annum or 4% per annum if the applicant is found by SBA to be unable to obtain credit elsewhere. Generally, borrowers pay equal monthly installments of principal and interest, beginning five months from the date of the loan. Loan maturities may be up to 30 years.

### Real Property Loans

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.[6] Only uninsured or otherwise uncompensated disaster losses are eligible. 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. 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.). Mitigation funds may not exceed 20% of the disaster damage, as verified by SBA, to a maximum of $200,000 for home loans.[7] As with Personal Property Loans, interest rates for Real Property Loans cannot exceed 8% per annum or 4% per annum if the applicant is unable to obtain credit elsewhere. Generally, borrowers pay equal monthly installments of principal and interest, beginning five months from the date of the loan. Loan maturities may be up to 30 years.

## SBA Disaster Loans Available to Businesses

SBA disaster assistance for businesses is also in the form of loans rather than grants and must therefore be repaid. 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 Economic Injury Disaster Loans (EIDL).

### Business Physical Disaster Loans

Any business, regardless of size (other than an agricultural enterprise),[8] located in a declared disaster area may be eligible for a Business Physical Disaster Loan. Business Physical Disaster Loans provide up to $2 million to repair or replace damaged physical property including

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[5] 13 C.F.R. §123.105(a)(1).

[6] 13 C.F.R. §123.105(a)(2).

[7] 13 C.F.R. §123.107.

[8] 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."

machinery, equipment, fixtures, inventory, and leasehold improvements that are not covered by insurance.[9] 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 in their business. Businesses may utilize up to 20% of the verified loss amount for mitigation measures in an effort to prevent loss should a similar disaster occur in the future. Interest rates for Business Physical Disaster Loans cannot exceed 8% per annum or 4% per annum if the business cannot obtain credit elsewhere.[10] As with personal disaster loans, borrowers generally pay equal monthly installments of principal and interest starting five months from the date of the loan. SBA will consider other payment terms if the business has seasonal or fluctuating income. Business Physical Disaster Loans maturities may be up to 30 years.

### Economic Injury Disaster Loans

EIDLs are available only to businesses 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 (which vary from industry to industry).[11] For example, to be considered small, most manufacturing firms must have no more than 500 employees and most retail trade firms must have no more than $7 million in average annual sales. 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. Substantial economic injury "is such that the business concern is unable to meet its obligations as they mature or to pay its ordinary and necessary operating expenses."[12] The maximum loan amount for an EIDL is $2 million. 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. The loan can have a maturity of up to 30 years and has an interest rate of 4% or less.[13]

## Declared Disasters as Defined by SBA

Only victims located in a declared disaster area (and contiguous counties) are eligible to apply for disaster loans. Disaster declarations are "official notices recognizing that specific geographic areas have been damaged by floods and other acts of nature, riots, civil disorders, or industrial accidents such as oil spills."[14] In general, the incident must be sudden and cause severe physical damage or substantial economic injury (such as tornadoes, hurricanes, and earthquakes). In contrast, some slow-onset events (incidents that unfold over time) such as shoreline erosion or gradual land settling are not viewed by SBA as declarable disasters. Droughts and below-average water levels in lakes, reservoirs, and other bodies of water may, however, warrant declarations.[15]

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[9] 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.

[10] 13 C.F.R. §123.203(a).

[11] See 13 C.F.R. §123.300 for eligibility requirements. Size standards vary according to a variety of factors, including industry type, average firm size, and start-up costs and entry barriers. Size standards can be located in 13 C.F.R. 121. For further analysis, see CRS Report R40860, *Small Business Size Standards: A Historical Analysis of Contemporary Issues*, by Robert Jay Dilger.

[12] 13 C.F.R. §123.300.

[13] 13 C.F.R. §123.302.

[14] 13 C.F.R. §123.2.

[15] Ibid. Areas affected by droughts and below-average water levels are only eligible for Economic Injury Disaster (continued...)

## Types of Declarations

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),[16] and three types of SBA declarations.[17] 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 following describes each type of declaration:

1. The President issues a major disaster declaration, or an emergency declaration, and authorizes both Individual Assistance (IA) and Public Assistance (PA).[18] When the President issues such a declaration, SBA disaster loans become available to homeowners, renters, businesses of all sizes, and nonprofit organizations located within the disaster area. EIDL loans may also be made for victims in contiguous counties or other political subdivisions.
2. The President makes a major disaster 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 an SBA disaster loan. The entity 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.[19] Home and physical property loans are not provided if the declaration only provides PA.
3. The SBA Administrator issues a physical disaster declaration in response to a gubernatorial request for assistance.[20] 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.

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(...continued)

Loans, which are discussed later in this report.

[16] P.L. 93-288, 42 U.S.C. 5721 et seq.

[17] 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.

[18] 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, 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. For further analysis of Stafford Act declarations, see 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.

[19] 13 C.F.R. §123.3(2). See also 42 U.S.C. §5172(a)(3).

[20] 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).

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 continuous 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.[21] 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.[22]

## Declaration Frequency

As shown in **Table 1** and **Figure 1**, 4,210 declarations were issued from 2000 through 2014—an average of 279 a year.[23] The greatest number of declarations (2,431) were issued by the Secretary of Agriculture (an average of 162 a year). In contrast, the fewest declarations came from the Secretary of Commerce (only two were issued during the time period).

**Table 1. Declaration by Type**

Calendar Years 2000 to 2014

| Year | Presidential | Presidential (PA Only) | SBA | EIDL Only—7(b)2(D) | Secretary of Agriculture | Secretary of Commerce | Total |
|---|---|---|---|---|---|---|---|
| **2000** | 22 | | 38 | 12 | 116 | 0 | 188 |
| **2001** | 30 | | 24 | 15 | 82 | 0 | 151 |
| **2002** | 30 | | 34 | 13 | 126 | 0 | 203 |
| **2003** | 64 | | 37 | 12 | 112 | 0 | 225 |
| **2004** | 41 | 22 | 28 | 2 | 154 | 0 | 247 |
| **2005** | 21 | 26 | 32 | 3 | 226 | 0 | 308 |
| **2006** | 25 | 28 | 35 | 5 | 268 | 2 | 363 |
| **2007** | 33 | 40 | 44 | 29 | 190 | 0 | 336 |
| **2008** | 37 | 53 | 55 | 7 | 167 | 0 | 319 |
| **2009** | 25 | 57 | 40 | 15 | 149 | 0 | 286 |
| **2010** | 17 | 80 | 51 | 15 | 133 | 0 | 296 |

[21] 13 C.F.R. §123.3(4).

[22] 15 U.S.C. §632(k)(1).

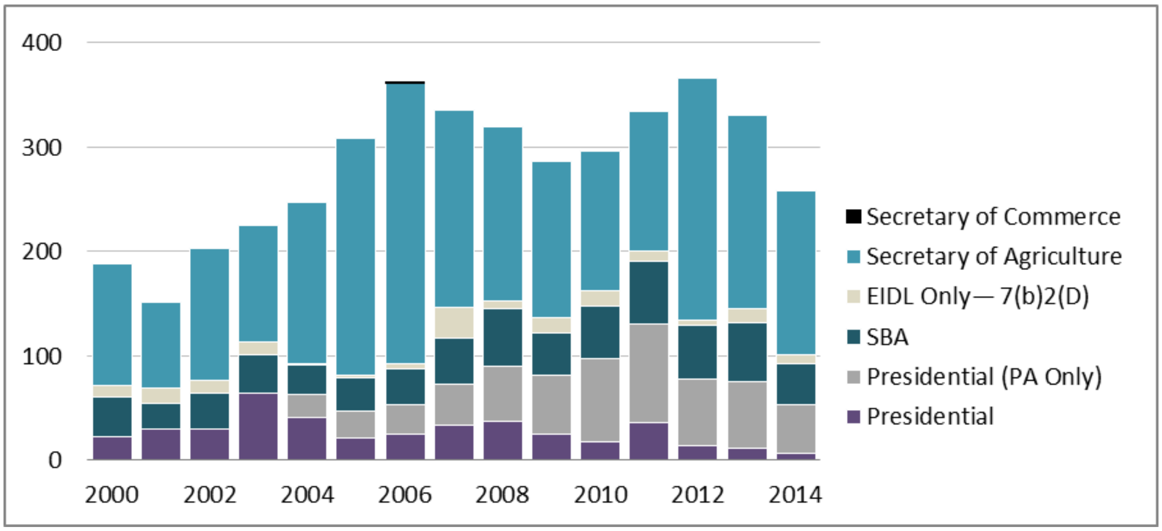
[23] Calendar years.

| Year | Presidential | Presidential (PA Only) | SBA | EIDL Only—7(b)2(D) | Secretary of Agriculture | Secretary of Commerce | Total |
|---|---|---|---|---|---|---|---|
| **2011** | 36 | 95 | 60 | 9 | 134 | 0 | 366 |
| **2012** | 14 | 64 | 51 | 5 | 232 | 0 | 366 |
| **2013** | 11 | 64 | 57 | 13 | 185 | 0 | 330 |
| **2014** | 7 | 46 | 39 | 9 | 157 | 0 | 258 |
| **Total** | 413 | 575 | 625 | 164 | 2,431 | 2 | 4,210 |

**Source**: Data provided by SBA and available from the CRS author upon request.

**Figure 1. Declaration by Type**

Calendar Years 2000-2014




**Source:** Data provided by SBA and available from the CRS author upon request.

# SBA Disaster Loan Program Trends and Statistics

The following section describes the SBA Disaster Loan Program's trends and statistics including the number of disaster loan applications and amounts by loan type.

## Applications, Approvals, and Disbursements

As shown in **Table 3**, SBA approved 533,628 disaster loan applications totaling over $26.5 billion for home, business, and EIDLs from 2000 to 2014.[24] Both the number and amount of disaster loans approved vary from year to year, largely due to the varying severity of hurricane damages during the time period.

Not all approved applicants accept the loans. Approximately 72% (380,450 loans) of approved disaster loans during the time period, amounting to roughly $15.5 billion, were actually disbursed

[24] The total includes physical and real property loans.

to businesses and households. **Figure 2** displays the percent of all approved loans that were disbursed each year.

**Table 2. SBA Disaster Loan Applications, Approvals, and Disbursements**

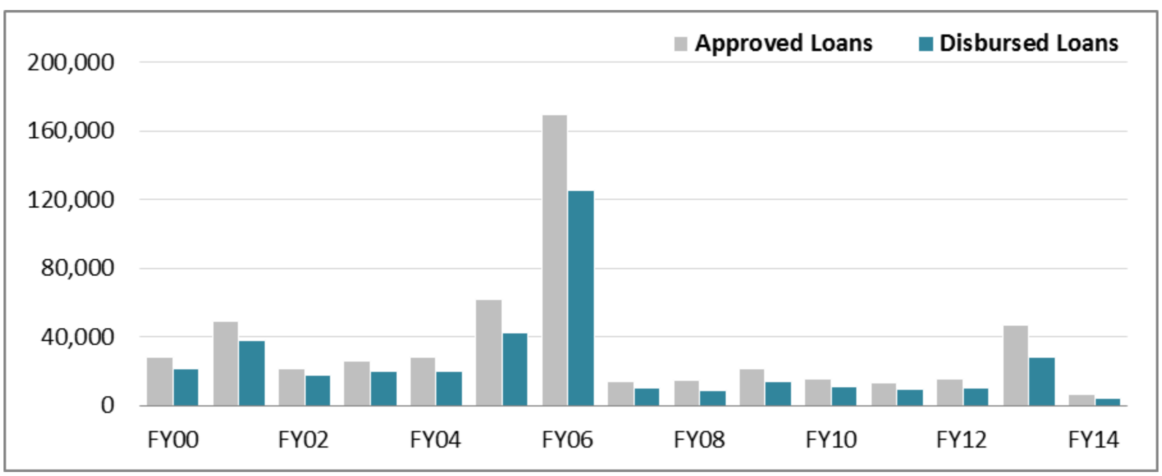
FY2000-FY2014

| Fiscal Year | Number of Approved Loans | Dollar Amount of Approved Loans | Number of Disbursed Loans | Dollar Amount of Disbursed Loans |
|---|---|---|---|---|
| **2000** | 28,218 | $1,028,736,900 | 21,384 | $726,782,780 |
| **2001** | 48,852 | $1,010,625,100 | 38,072 | $696,913,344 |
| **2002** | 21,829 | $1,338,446,400 | 17,962 | $1,210,405,157 |
| **2003** | 25,856 | $885,211,500 | 20,037 | $638,923,536 |
| **2004** | 28,510 | $883,490,400 | 19,928 | $486,076,844 |
| **2005** | 62,075 | $2,278,689,500 | 42,170 | $1,179,102,634 |
| **2006** | 169,983 | $11,170,256,308 | 125,395 | $6,219,573,895 |
| **2007** | 14,014 | $819,669,900 | 10,054 | $944,273,287 |
| **2008** | 15,128 | $825,840,100 | 9,066 | $505,580,624 |
| **2009** | 21,780 | $1,129,515,400 | 14,154 | $549,915,923 |
| **2010** | 15,356 | $574,425,900 | 10,777 | $370,358,676 |
| **2011** | 13,643 | $739,353,100 | 9,287 | $390,588,866 |
| **2012** | 15,324 | $689,614,900 | 9,977 | $370,674,483 |
| **2013** | 46,817 | $2,796,585,400 | 27,938 | $1,031,178,613 |
| **2014** | 6,243 | $332,635,900 | 4,249 | $155,139,214 |
| **Total** | 533,628 | $26,503,096,708 | 380,450 | $15,475,487,877 |

**Source:** Data provided by SBA and available from the CRS author upon request.

**Figure 2. SBA Disaster Loan Applications, Approvals, and Disbursements**

FY2000-FY2014




**Source:** Data provided by SBA and available from the CRS author upon request.

## Disbursements by Type

As shown in **Table 3** and **Figure 3**, from FY2000 to FY2014, 83.1% of disbursed disaster loans were home disaster loans (including Home Physical Disaster Loans and Personal Property Loans), 11.2% were for Business Physical Disaster Loans, and 5.7% were EIDLs.

**Table 3. SBA Home, Business and Economic Disaster Loans**

FY2000 to FY2014

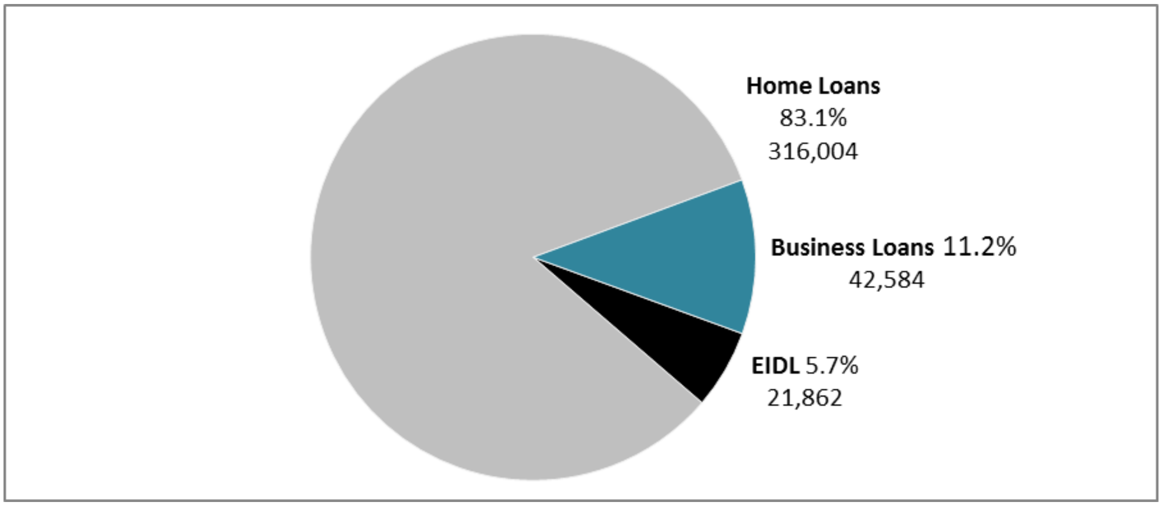
| | EIDL | | Home Disaster Loans | | Business Disaster Loans | | |
|---|---|---|---|---|---|---|---|
| **Fiscal Year** | **Number Disbursed** | **Percentage of Combined Total** | **Number Disbursed** | **Percentage of Combined Total** | **Number Disbursed** | **Percentage of Combined Total** | **Combined Total** |
| 2000 | 849 | 4.0% | 17,298 | 80.9% | 3,237 | 15.1% | 21,384 |
| 2001 | 1,093 | 2.9% | 33,720 | 88.6% | 3,259 | 8.6% | 38,072 |
| 2002 | 8,748 | 48.7% | 7,579 | 42.2% | 1,635 | 9.1% | 17,962 |
| 2003 | 2,568 | 12.8% | 15,279 | 76.3% | 2,190 | 10.9% | 20,037 |
| 2004 | 576 | 2.9% | 17,261 | 86.6% | 2,091 | 10.5% | 19,928 |
| 2005 | 1,262 | 3.0% | 35,356 | 83.8% | 5,552 | 13.2% | 42,170 |
| 2006 | 3,500 | 2.8% | 107,982 | 86.1% | 13,913 | 11.1% | 125,395 |
| 2007 | 463 | 4.6% | 8,267 | 82.2% | 1,324 | 13.2% | 10,054 |
| 2008 | 490 | 5.4% | 7,471 | 82.4% | 1,105 | 12.2% | 9,066 |
| 2009 | 587 | 4.1% | 11,707 | 82.7% | 1,860 | 13.1% | 14,154 |
| 2010 | 518 | 4.8% | 9,202 | 85.4% | 1,057 | 9.8% | 10,777 |
| 2011 | 270 | 2.9% | 8,000 | 86.1% | 1,017 | 11.0% | 9,287 |
| 2012 | 202 | 2.0% | 8,596 | 86.2% | 1,179 | 11.8% | 9,977 |
| 2013 | 569 | 2.0% | 24,747 | 88.6% | 2,622 | 9.4% | 27,938 |
| 2014 | 167 | 3.9% | 3,539 | 83.3% | 543 | 12.8% | 4,249 |
| Total | 21,862 | 5.7% | 316,004 | 83.1% | 42,584 | 11.2% | 380,450 |
| Average | 1,457 | | 21,067 | | 2,839 | | 25,363 |

**Source**: Data provided by SBA and available from the CRS author upon request.

**Notes:** A large number of Home Disaster Loans were approved in 2001 due mainly to the February 28, 2001, Nisqually Earthquake. Other noticeable increases in approved applications occurred in 2005 and especially in 2006, following the Gulf Coast hurricanes.

**Figure 3. Disbursed SBA Disaster Loans by Type**

FY2000-FY2014




**Source:** Data provided by SBA and available from the CRS author upon request.

## Economic Injury Disaster Loan Amounts

As shown in **Table 3**, SBA disbursed 21,862 EIDLs from FY2000 to FY2014. These loans totaled approximately $2.0 billion. The average number of disbursed EIDLs per year from FY2000 to FY2014 was 1,457. The average amount of EIDLs provided by SBA per year during the same period was $135 million.

## Home Physical Disaster Loan Amounts

As shown in **Table 3**, SBA disbursed 316,004 home disaster loans (including Home Physical Disaster Loans and Real Property Loans) from FY2000 to FY2014. These loans totaled approximately $9.7 billion. The average number of disbursed home disaster loans per year from FY2000 to FY2014 was 21,067. The average amount of home disaster loans provided per year during the same period was $650 million.

## Business Physical Disaster Loan Amounts

As shown in **Table 3**, SBA disbursed 42,584 Business Physical Disaster Loans from FY2000 to FY2014. These loans totaled approximately $3.7 billion. The average number of disbursed Business Physical Disaster Loans from FY2000 to FY2014 was 2,839. The average amount of Business Physical Disaster Loans provided per year during the same period was $247 million.

# Potential Issues for Congress

Several issues related to the SBA Disaster Loan Program may be of interest to Congress, including disaster loan processing times, the implementation of expedited and immediate assistance programs mandated by the Small Business Disaster Response and Loan Improvement Act of 2008, the use of personal residences for loan collateral, and the use of grants, as opposed to loans, to help businesses respond and recover from disasters.

## Disaster Loan Processing Times

The SBA was criticized for not processing disaster loan applications in a timely manner following the Gulf Coast hurricanes of 2005 and 2008. On September 25, 2009, Manuel Gonzalez, Director of the SBA Houston District Office, testified before the Senate Committee on Small Business and Entrepreneurship that the agency's 2008 response to Hurricane Ike demonstrated programmatic improvements. According to Gonzalez, loan processing times had decreased and better interagency cooperation had been achieved. Gonzalez conceded, however, that there was still room for improvement.

In FY2009, SBA's goal was to process 85% of disaster loan applications within 14 days for home disaster loans and within 18 days for business physical disaster loans and EIDLs. SBA continued to compare its actual performance against this standard even though it subsequently specified reduced standards of 27 days for home disaster loans and 30 days for business physical disaster loans and EIDLs in FY2013 Since then, SBA has established more 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).[25]

According to SBA, the percent of disaster loans processed within its new, tiered standard performance goal was 100% in FY2010, 100% in FY2011, 95% in FY2012, 55% in FY2013, and 100% in FY2014.[26] SBA noted that its lower performance in FY2013 was largely due to increased loan volumes following Hurricane Sandy.

Hurricane Sandy made landfall in southern New Jersey on October 29, 2012. The hurricane caused approximately $67 billion in damages, displaced more than 775,000 persons, and resulted in at least 59 fatalities. As of May 12, 2015, SBA had approved 36,911 hurricane Sandy disaster loans, totaling approximately $2.49 billion.[27] In January 2013, there was a backlog of over 29,000 disaster loan applications pending processing. SBA extended office hours, shifted personnel, reallocated work, and hired additional personnel to address the backlog. It also created two expedited loan processes: one for home loans for applicants with relatively high incomes and good credit scores, and another for EIDLs.[28] As a result of these efforts, the backlog was reduced to about 3,000 by April 2013.

An SBA OIG study found that SBA's expedited process for home disaster loans reduced the application processing time by 2.3 days (18.7 days versus 21 days) compared to the standard processing method and SBA's expedited process for business disaster loans *increased* the application processing time by 4.4 days (43.3 days versus 38.9 days) compared to the standard

[25] 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.

[26] Ibid.

[27] U.S. Small Business Administration, Office of Inspector General, *Hurricane Sandy Expedited Loan Processes*, Audit Report No. 15-13, July 13, 2015, p. 1, available at https://www.sba.gov/sites/default/files/oig/Audit_Report_15-13_Sandy_Expedited_Processes.pdf.

[28] Ibid.

processing method.[29] The SBA OIG also found that neither of the expedited methods reduced the overall time from application acceptance to initial loan disbursements.[30]

Congress may be concerned that SBA disaster loans should be processed more quickly following major disasters, like Hurricane Sandy, in order to provide timely assistance to businesses and households. Congress could conduct oversight on loan processing and explore potential methods that might improve loan processing time. For example, SBA is moving from paper-based to electronic platforms to reduce processing times. On the other hand, some might caution that processing loans too quickly could potentially lead to waste, fraud, and abuse. From this perspective, Congress could examine methods for reducing processing time while guarding against the unintended consequence of an increased potential for loan fraud and abuse.

## Small Business Disaster Response and Loan Improvements Act of 2008

In response to criticism of SBA's disaster loan processing following the Gulf Coast hurricanes of 2005 and 2008, and in an effort to improve SBA's Disaster Loan Program, Congress passed the Small Business Disaster Response and Loan Improvements Act of 2008 (P.L. 110-234).[31] The act included a number of measures to improve SBA's Disaster Loan Program. The act is divided into three parts as follows:

- **Part I, Disaster Planning and Response:** Part 1 of the act includes a number of measures intended to improve SBA's coordination with other agencies when responding to disasters. For instance, Section 12062(a)(5) requires the SBA administrator to ensure that the agency's disaster assistance programs are coordinated, to the maximum extent practicable, with FEMA's disaster assistance programs. Section 12063(5) requires that the administrator make every effort to communicate, through radio, television, print, and internet-based outlets, all relevant information needed by disaster loan applicants. Section 12069(a) requires that if SBA's primary facility for disaster loan processing becomes unavailable, another disaster loan processing facility must be made available within two days.
- **Part II, Disaster Lending:** Part 2 of the act provides additional loan amounts in certain circumstances, reforms some of SBA's loan processes, and grants SBA authority to defer payments of loans made to homeowners and businesses affected by the 2005 Gulf Coast hurricanes. For example, Section 12081 grants the SBA administrator authority to provide additional disaster assistance for events that cause significant loss of life or damage, Section 12084 establishes the Immediate Disaster Assistance Program, Section 12085 establishes an Expedited Disaster Assistance Loan Program, and Section 12086 allows the SBA administrator to carry out a program to refinance Gulf Coast disaster loans.
- **Part III, Miscellaneous:** Part 3 of the act pertains to reporting requirements for SBA disaster assistance programs. Section 12091 requires, after a major disaster,

[29] Ibid, p. 4.

[30] Ibid. Expedited home disaster loans took, on average, 97.5 days until disbursement compared to 82.6 days for standard home disaster loans. Expedited EIDL business loans took 100.3 days compared to 93.7 days for standard EIDLs.

[31] Subtitle B of P.L. 110-234, Section 12051.

> the SBA administrator to submit to the Senate Committee on Small Business and Entrepreneurship, the Senate Committee on Appropriations, the House Committee on Small Business, and the House Committee on Appropriations a report on the operation of the Disaster Loan Program not later than the fifth business day of each month during the applicable period for a major disaster. The reports must include the daily average lending volume (in number of loans and dollars), the percentage by which each category has increased or decreased since the previous report, the amount of funding available for loans, and an estimate of how long the available funding for salaries and expenses will last, based on SBA's spending rate.

### *Immediate and Expedited Disaster Assistance*

Among the programs intended to improve SBA's Disaster Loan Program are three guaranteed loan programs established in Part II of the act: the Expedited Disaster Assistance Loan Program (EDALP), the Immediate Disaster Assistance Program (IDAP), and the Private Disaster Assistance Program (PDAP). These programs are intended, in part, to help homeowners and business who are in immediate need of assistance.

Section 12084 of the act required the SBA Administrator to establish and implement IDAP. It would provide businesses interim "bridge loans" through private sector lenders of up to $25,000 within 36 hours after SBA receives the loan application. Section 12085 of the act required the SBA Administrator to establish and implement EDALP which would provide up to $150,000 in "bridge" loans to businesses more quickly than standard SBA disaster loans. EDALP was designed to disburse the loans more quickly than standard SBA disaster loans. Section 12083 required the SBA Administrator to establish and implement PDAP. PDAP would provide up to $2 million in guaranteed loans to both businesses and homeowners.[32]

A 2014 GAO report found that SBA had not piloted or implemented the three programs. Consequently, these programs were unavailable in response to Hurricane Sandy.[33] In the case of IDAP, SBA responded that informal feedback from various lenders indicated the "parameters of IDAP would make it difficult to implement."[34] SBA also stated that it had developed forms and drafted a procedural guide but had not a conducted formal evaluation including lender feedback.

While SBA has initiated the development of forms and procedural guidelines for the new programs, Congress may be concerned the loan programs are not being implemented in a timely manner. Congress may also be concerned that households and businesses may not have access to expedited loan assistance in future disasters if SBA fails to implement the mandated programs. With respect to lender feedback, Congress could conduct oversight concerning potential methods that could encourage lenders to participate in the program.

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[32] Home Physical Disaster Loans are limited to $200,000. It is unclear if the new program would increase that amount to $2 million.

[33] U.S. Government Accountability Office, *Small Business Administration: Additional Steps Needed to Help Ensure More Timely Disaster Assistance*, GAO-14-760, September 29, 2014, at http://www.gao.gov/assets/670/666213.pdf.

[34] Ibid, p. 61. According to the GAO report, the feedback included lender concern that some program requirements, such as a statutory minimum 10-year time frame for servicing the loan under certain circumstances, may discourage lenders from participating.

## Loan Collateral and Grants to Businesses

To the extent that worthwhile assets are available, adequate collateral is required as security on all SBA loans. Assets such as equipment, buildings, accounts receivable, and (in some cases) inventory are considered by SBA as possible sources of repayment if they can be sold by the bank for cash. Collateral can consist of assets that are usable in the business as well as personal assets that remain outside the business. Collateral includes items such as a lien on the damage or replacement property, a security interest in personal/business property, or both. Loan recipients can assume that all assets financed with borrowed funds will be used as collateral for the loan.[35] However, SBA generally 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.

SBA does not require collateral for the following:

- **EIDL**. Generally, SBA does not require collateral to secure EIDLS of $25,000 or less.
- **Physical Disaster Home and Physical Disaster Business Loans**: SBA will not require collateral to secure a physical disaster home or physical disaster business loan of $14,000 or less. In addition, if a major disaster declaration is declared, SBA generally will not require collateral to secure a physical disaster home or physical disaster business loan of $25,000 or less.

SBA requires collateral for loans larger than the amounts specified above as well as certified appraisals for loans greater than $250,000 secured by commercial real estate. In addition, SBA may require professional appraisals of both business and personal assets, plus any necessary survey and/or feasibility study. When real estate is being used as collateral, banks and other regulated lenders are required by law to obtain third-party valuation on transactions of $50,000 or more.

According to the report published by the Bipartisan Task Force on Hurricane Sandy Recovery, some businesses could not obtain an SBA disaster loan unless they used their personal residences as collateral. Some business owners who lacked other forms of collateral were reluctant to use their personal residences as collateral because it was the only tangible asset they had left after the storm. The report also indicated that some businesses could not afford disaster loans even with six months grace periods and interest rates of 1%.[36]

Congress could explore methods that help business owners obtain disaster loans without using their personal residences as collateral, or prohibit SBA from requiring personal residences as collateral for disaster loans. For example, S. 956, the Small Business Disaster Reform Act of 2015 would prohibit SBA from requiring a small business owner to use their primary residency as collateral if the owner has other assets with a value equal to, or greater than, the loan amount that could be used.

With respect to the affordability of disaster loans, one potential solution suggested by the Bipartisan Task Force was the use of direct grants—similar to grants provided households by the

[35] 13 C.F.R. §123.11.

[36] Bipartisan Task Force on Hurricane Sandy Recovery, *Bipartisan Task Force on Hurricane Sandy Recovery Preliminary Report*, February 2013, p. 17, at http://www.nysenate.gov/files/pdfs/Senate%20Bipartisan%20Task%20Force%20on%20Hurricane%20Sandy%20Report%20FINAL%202-5.pdf.

Federal Emergency Management Agency (FEMA)—to help businesses rebuild and recover from disasters. Some, however, might express concern over the costs associated with providing grants. For example, between 2004 and 2013, FEMA provided renters and homeowners roughly $16 billion in grants through its Individual and Households Program (IHP). Providing grants to businesses could significantly increase federal expenditures for grant assistance.

Critics of providing grants may also argue that, traditionally, grants have not been provided to businesses by Congress because businesses are responsible for obtaining insurance as part of their business portfolio.

## Interest Rates and Loan Forgiveness

As mentioned earlier in this report, disaster loans have statutorily established ceilings on interest rates. Floors on interest rates, however, are not statutorily set. In general, interest is based on current average market rates as determined by the SBA Administrator (unless market rate exceeds the ceilings). Interest rates may therefore vary from disaster to disaster. For example, the interest rates for business loans in 2011 for businesses affected by flooding in Pennsylvania had an interest rate of 4% while interest rates for businesses affected by Hurricane Katrina in 2005 had an interest rate of 2.9%.[37] To some, this may be perceived as inequitable. In other cases, some individuals and households cannot repay their loans despite the lower interest rates.

Some may argue that Congress should establish a set interest for all disasters. Congress may also consider lowering interest rates for existing disaster loans. For example, H.R. 2857, introduced in the 113th Congress, would have restructured qualifying disaster loans at a lower rate. Congress could also consider offering loan forgiveness to those who are having difficulty repaying their loans. As a general rule, SBA does not offer loan forgiveness unless Congress intervenes. One exception was granted after Hurricane Betsy, when President Lyndon B. Johnson signed the Southeast Hurricane Disaster Relief Act of 1965.[38] Section 3 of the act authorized the SBA administrator to grant disaster loan forgiveness or issue waivers for property lost or damaged in Florida, Louisiana, and Mississippi as a result of Hurricane Betsy. The act stated that

> ... to the extent such loss or damage is not compensated for by insurance or otherwise, (1) shall at the borrower's option on that part of any loan in excess of $500, (A) cancel up to $1,800 of the loan, or (B) waive interest due on the loan in a total amount of not more than $1,800 over a period not to exceed three years; and (2) may lend to a privately owned school, college, or university without regard to whether the required financial assistance is otherwise available from private sources, and may waive interest payments and defer principal payments on such a loan for the first three years of the term of the loan.[39]

Others may argue that interest rates are sufficiently low and that interest rates are needed to cover the administrative costs associated with disaster loans. Low interest rates and forgiveness could undermine SBA efforts to recoup some of the costs needed to administer the program.

[37] See press release "Rep. Barletta working to lower high SBA disaster loan interest rate," September 15, 2011.

[38] P.L. 89-339, 79 Stat. 1301.

[39] P.L. 89-339, 79 Stat. 1301.

# Concluding Observations

Supporters of the SBA Disaster Loan Program might contend that the SBA Disaster Loan Program has made improvements since Hurricane Katrina made landfall in 2005. They may argue that loan processing times have been reduced and interagency coordination has improved as evidenced by the response to hurricanes Gustav and Ike. On the other hand, others might argue that the SBA response to Hurricane Sandy indicates loan processing time still needs to be addressed. Some may also be troubled by SBA's perceived slow progress in implementing some of the requirements set forth in the Small Business Disaster Response and Loan Improvements Act of 2008 such as the implementation of EDALP and IDAP. They may further contend that the agency's response could have been more successful had these programs been in place before Hurricane Sandy.

# Appendix A. Why Does SBA Issue Disaster Loans Instead of FEMA?

In 1978, President Jimmy Carter signed Executive Order 12127. The order merged many of the disaster-related responsibilities of separate federal agencies into the Federal Emergency Management Agency (FEMA). During FEMA's formation, it was determined that SBA would continue to provide disaster loans through the Disaster Loan Program rather than transfer that function to FEMA. At the 1978 hearing before a Subcommittee of the Committee on Government Operations, Chairman Jack Brooks questioned the rationale for keeping the loan program outside of FEMA.[40] According to James T. McIntyre, Director, Office of Management and Budget (OMB), the rationale was as follows:

> [O]ne of the fundamental principles underlying this proposal is that whenever possible emergency responsibilities should be an extension of the regular missions of federal agencies. I believe the Congress also subscribed to this principle in considering disaster legislation in the past. The Disaster Relief Act of 1974 provides for the direction and coordination, in disaster situations, of agencies which have programs which can be applied to meeting disaster needs. It does not provide that the coordinating agency should exercise direct operational control.... [I]f the programs ... were incorporated in the new agency we would be required to create duplicate sets of skills and resources.... [S]ince the Small Business Administration administers loan programs other than those just for disaster victims, both the SBA and the new agency [FEMA] would have to maintain separate staffs of loan officers and portfolio managers if the disaster loan function were transferred to the new Agency.... [O]ne of our basic purposes for reorganization ... would be thwarted if we were to have to maintain a duplicate staff function in two or more agencies.

McIntyre added, "We believe we have achieved a balance in this new agency [FEMA] between operational activities and planning and coordination functions." He further stated that "we can provide better service to the disaster victims if oversight of disaster response and recovery operations is vested in an agency which can adopt a much broader prospective than would be possible if this agency [FEMA] had operational responsibilities as well."

Additionally, a clause in the Stafford Act that prohibits recipients of disaster aid from receiving similar types of aid from other federal sources is often cited as a rationale for keeping the entities distinct.[41] Section 312 of the act states:

> The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.[42]

[40] U.S. Congress, House Subcommittee on Legislation and National Security, Committee on Government Operations, *Reorganization Plan No. 3 of 1978 (Federal Emergency Management Agency)*, hearing, 95th Cong., 2nd sess., June 26 and 29, 1978, p. 13.

[41] P.L. 93-288, 42 U.S.C. §5121 et seq. For further analysis of the Stafford Act, see CRS Report RL33053, *Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding*, by Francis X. McCarthy.

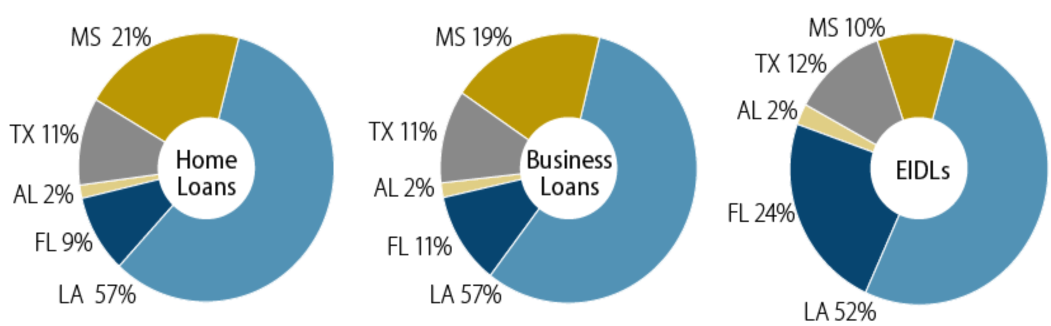
[42] P.L. 93-288, 15 U.S.C. §5155(a).

# Appendix B. SBA Disaster Loan Approvals for Applicants in Gulf Coast States

The following figures are provided to help frame discussions concerning SBA Loan Program activity in the Gulf Coast in response to the 2005 and 2008 hurricane seasons.

**Figure B-1. Number of Approved Applications for Home, Business, and EIDLs by Gulf Coast State**

As of June 2012



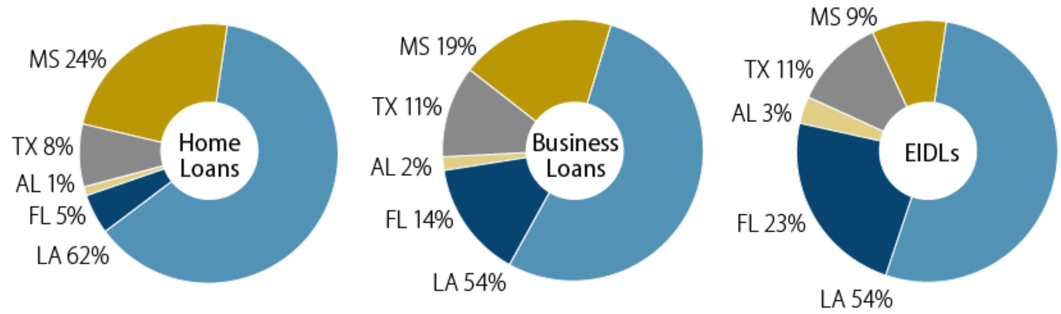

| | Home Loans | Business Loans | EIDLs |
|---|---|---|---|
| AL | 2,497 | 360 | 82 |
| FL | 14,021 | 2,578 | 812 |
| LA | 86,206 | 12,921 | 1,801 |
| MS | 31,243 | 4,388 | 335 |
| TX | 15,935 | 2,545 | 410 |
| Total | 149,902 | 22,792 | 3,440 |

**Source:** Data provided by SBA and available from the CRS author upon request.

**Notes:** Numbers shown in this figure refer to approved disaster loans. Not all approved loans are accepted by disaster victims and businesses. Therefore, actual loan acceptance and accepted numbers of loans may be smaller than the numbers shown here.

**Figure B-2. Disaster Assistance Loans by SBA**

As of June 2012




| | Home Loans | Business Loans | EIDLs |
|---|---|---|---|
| AL | $96.2 | $47.1 | $7.2 |
| FL | $450.2 | $412.1 | $48.9 |
| LA | $5,445.9 | $1,526.2 | $111.5 |
| MS | $2,069.2 | $546.4 | $19.3 |
| TX | $686.5 | $324.0 | $24.3 |
| Total | **$8,895.4** | **$2,878.2** | **$214.5** |

*$millions*

**Source:** Data provided by SBA and available from the CRS author upon request.

**Notes:** SBA amounts shown in this figure refer to approved disaster loans. Not all approved loans are accepted by disaster victims and businesses. Therefore, actual loan acceptance and amounts may be smaller than the amounts shown here.

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