



## **SBA Loan Assistance to Small Business Under the Current Rules**

*NOTE: This article was posted on March   19  , 2020 at       9 am   PDT. Because the COVID-19 situation is rapidly changing as the government and State of California continues to fight the pandemic, individuals and businesses should consult with counsel for the latest developments and updated guidance on this topic.*

The SBA was created “as an independent agency of the federal government to aid, counsel, assist, and protect the interests of small business concerns, to preserve free competitive enterprise and to maintain and strengthen the overall economy of our nation.” Under the authority of the Small Business Act, the SBA provides access to capital, entrepreneurial development, government contracting, and advocates on behalf of small businesses. Below is some general advice for small business owners under the Small Business Association’s (SBA) current rules:

### **Assistance**

Small businesses that qualify may borrow up to \$2 million at an interest rate of 3.75% through Economic Injury Disaster Loans (EIDL) to get them through the disaster recovery period.

### **Eligibility**

“Small business” is industry specific and defined for your industry by federal law. For some industries, the amount of revenue determines whether the business is considered a small business. For other industries, the number of employees dictate whether the business is a small business. For example, a full-service restaurant doing \$8 million or less in revenue (or \$12 million for limited-service restaurants) is considered a small business. Whereas, any brewery with fewer than 1,250 employees (for wineries and distilleries, 1,000 employees) is considered a small business. Additionally, the size of the applicant combined with its affiliates must not exceed the size standard designated for either the primary industry of the applicant alone or the primary industry of the applicant and its affiliates, whichever is higher.

Moreover, the impacted business must (1) be located in the declared disaster area; (2) have suffered substantial economic injury; and (3) be unable to obtain credit from non-government resources.

1. As of January 31, 2020, and continuing, California is a declared disaster area as a result of COVID-19.
2. Substantial economic injury “is such that the business concern is unable to meet its obligations as they mature or to pay its ordinary necessary operating expenses.”

3. Businesses must exhaust their own resources and credit resources from non-government entities before applying for EIDL. This may require showing that the applicant has been rejected by a bank.

### **How may the money be used?**

Loan money must be used to alleviate the economic injury caused by the disaster and to resume normal operations. During the pandemic, this probably means a restaurant, for instance, can use the loan to pay employees' wages but not to buy equipment. Unfortunately, it is unclear whether a government ordered shutdown affects to what the loan can be applied.

### **How is the loan amount determined?**

The SBA will weigh a number of factors to determine how much loan a small business qualifies for, including: (a) the total of the business's debt obligations; (b) operating expenses that mature during the period affected by the disaster, plus the amount you need to maintain a reasonable working capital position during that period; and (c) expenses you could have met and a working capital position you could have maintained had the disaster not occurred.

### **Terms**

According to a post on the SBA's website on March 17, 2020, the interest rate for small businesses is 3.75% and rate for non-profits is 2.75%. The maturity, up to 30 years, will depend on the business's ability to repay the loan.

### **Credit Requirements**

Applicants must have a credit history acceptable by the SBA, demonstrate an ability to repay the loan, and, generally, put up collateral (though, not always required).

### **Timing**

On average, EIDL loans are paid 43.3 days after application (according to a congressional study).

### **Recent Developments as of March 17, 2020**

Historically, the SBA has required that any state or territory impacted by disaster provide documentation certifying that at least five small businesses have suffered substantial economic injury as a result of a disaster, with at least one business located in each declared county/parish. Under the just-released, revised qualification criteria, states or territories are only required to certify that at least five small businesses within the state/territory have suffered substantial economic injury, regardless of where those businesses are located.

Under the revised criteria issued today, disaster assistance loans will be available statewide following an economic injury declaration. This will apply to current and future disaster assistance declaration related to Coronavirus.

California has already filed an Administrative Declaration of an Economic Injury Disaster.

### **Process**

First, apply online here:

<https://disasterloan.sba.gov/ela/Account/Login?ReturnUrl=%2Fela%2FLoanApplication%2FStartApplication>. Next, the SBA will verify your information, review your documentation, conduct a credit review, and process the loan application. Finally, the loan will be closed and funds will be disbursed. If you have questions about EIDL or the application process, contact your regional SBA office or your attorney.

*If you have questions regarding this article, contact The Maloney Firm at 310.540.1505.*