

VA Cash-Out Refinance

Judgment Liens & the Free-and-Clear Rule — 2026 Guidelines

Prepared: April 14, 2026 | Authority: VA Pamphlet 26-7, Chapter 6; VA Circular 26-19-05

The Core VA Requirement

The VA **requires an existing lien** on the property for a cash-out refinance to be eligible. A property owned completely free and clear — with no liens of any kind — is **not eligible**. However, the VA's definition of what qualifies as that existing lien is **broad and explicitly includes judgment liens**.

Does a Judgment Lien Satisfy the VA's Lien Requirement?

Yes. The VA Lenders Handbook and VA regional guidance are explicit on this point.

VA Regional Loan Center Guidance (VARO St. Paul) — reflecting VA Pamphlet 26-7 policy:

"A VA cash-out refinancing loan is a VA-guaranteed loan which refinances **any type of lien or liens** against the secured property. The liens to be paid off may be current or delinquent, and from any source — including **tax or judgment liens**, VA, FHA, or conventional mortgages."

A judgment lien recorded against the property **does constitute an existing lien** for purposes of satisfying the cash-out refinance eligibility requirement.

Key VA Handbook Guidance — VA Pamphlet 26-7, Chapter 6

On use of loan proceeds beyond the lien payoff:

"Loan proceeds beyond the amount needed to pay off the existing mortgage(s) and/or other **lien(s) of record** being refinanced may be taken as cash by the Veteran for any purpose. VA does not prescribe limitations for how the Veteran may use cash received from the refinancing loan."

On non-mortgage liens (e.g., tax or judgment liens):

The Handbook provides an example where refinancing loan proceeds are used to pay off a first mortgage, a second mortgage, **and a property tax lien** — explicitly demonstrating that non-mortgage liens of record are contemplated within the cash-out structure.

On lien ownership:

"The lien to be paid off is not required to be in the Veteran's name. For instance, it could be in the spouse's name, provided at the time of the new loan closing the Veteran is an owner."

First Lien Position Requirement

There is one critical structural requirement that must be met regardless of lien type:

VA Pamphlet 26-7, Chapter 6:

"The refinancing loan must be secured by **first lien position** on the property. All other lien holders must agree to subordinate to the VA refinancing loan. Copies of any subordination agreements must be included in the loan file for VA audit review."

In a judgment lien scenario, the judgment lien is typically **paid off at closing** from loan proceeds rather than subordinated — since judgment liens generally cannot be subordinated in the same manner as a second mortgage. Paying off the judgment at closing is the most common and cleanest path: the VA cash-out loan proceeds satisfy the judgment lien, and the new VA loan takes first lien position.

Summary for Underwriting Purposes

Element	VA Guideline
Property free & clear (no liens)	Ineligible for VA cash-out
Property with judgment lien only	Eligible — judgment lien qualifies as an existing lien of record
Lien type required	Any lien of record (mortgage, deed of trust, tax lien, judgment lien , etc.)
First lien position	New VA loan must be in first position at closing
Judgment lien disposition	Typically paid in full from loan proceeds at closing

Source authority	VA Pamphlet 26-7, Ch. 6; VA Circular 26-19-05; VARO guidance
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Bottom Line: A property encumbered only by a judgment lien — with no traditional mortgage or deed of trust — **does satisfy the VA's requirement** that an existing lien be present. The cash-out refinance can proceed; the judgment lien is paid off at closing from loan proceeds, and the VA loan takes first lien position. This is consistent with both the VA Lenders Handbook and VA regional office guidance as currently in effect.

Authority & Sources

- *VA Pamphlet 26-7 (VA Lenders Handbook), Chapter 6 — Refinancing Loans*
- *VA Circular 26-19-05 — Cash-Out Refinance Requirements (effective February 15, 2019)*
- *VA Regional Loan Center (VARO St. Paul) — Refinancing Options Guidance*
- *VA Lenders Handbook, Chapter 4 — Credit Underwriting*
- *38 CFR § 36.4306 — Cash-Out Refinance Regulations*

This document is a professional reference summary. Always verify current guidelines with the VA Lenders Handbook (VA Pamphlet 26-7) and applicable VA Circulars prior to underwriting decisions.