Veterans Benefits Administration
Department of Veterans Affairs
Washington, DC 20420

Circular 26-26-2
August 11, 2026

Terminating VA-Guaranteed Loans Where VA Has A Partial Claim Interest

1. Purpose. This Circular explains when servicers can use a non-judicial foreclosure process to discharge properties from a VA partial claim interest.

2. Background. Congress has in 38 U.S.C. § 3737[1] expressly authorized the use of non-judicial foreclosures to discharge properties from a VA partial claim interest.[2] The new authorization resolves the difficulties that title insurers and loan servicers faced in VA's program in light of the *Show Me State*[3] litigation's application of 28 U.S.C. § 2410. The predominant interpretation of the case has been that, under section 2410, only a judicial foreclosure could discharge properties from a VA partial claim interest. But a judicial foreclosure can cost up to 12 times more and take months or even years longer than the non-judicial alternative. With the enactment of section 3737, Congress clarified that a VA partial claim interest does not preempt state law where non-judicial foreclosure is available. A servicer can discharge a property from a VA partial claim interest if the servicer carries out the non-judicial foreclosure and distributes any excess proceeds in accordance with state law. VA does not need to execute a separate release of lien in those instances, as the discharge would be effective as a matter of law. The lien discharge provision does not apply where the state does not allow for the non-judicial foreclosure of a home loan.

3. Effective Date. This Circular is effective immediately.

4. Partial Claim Interest. Non-judicial foreclosures complying with 38 U.S.C. § 3737(e)(2) discharge properties from VA's partial claim interests. These partial claim interests include:

a. COVID-19 Veterans Assistance Partial Claim Payments (COVID-VAPCP) made under subpart F, part 36, title 38, C.F.R.;

b. Partial purchases made as part of a COVID-19 Refund Modification; and

[1] See 38 U.S.C. § 3737(e)(2) ("Notwithstanding section 2410 of title 28, a non-judicial sale of real property to satisfy a loan guaranteed under this chapter shall discharge the property from a partial claim interest held by the Secretary, provided that the holder of the guaranteed loan conducts the non-judicial sale and distributes the sale proceeds, if any, in accordance with the State or local law where such property is situated.").
[2] While section 3737(e)(2) authorizes discharging real property from VA's partial claim interest liens, the statute expressly imposes personal liability on borrowers who default under a section 3737 Partial Claim. See 38 U.S.C. § 3737(e)(1).
[3] See *Show Me State Premium Homes, LLC v. McDonnell*, 74 F.4th 911 (8th Cir. 2023).

c. Future Partial Claims[4] as described in 38 U.S.C. § 3737(b).

5. In-Flight Foreclosures. Servicers that initiated judicial foreclosure before August 11, 2026, to discharge properties from VA's partial claim interest can continue with the judicial process. If switching to a non-judicial foreclosure under state law would reduce time and costs without jeopardizing the interest in the guaranteed loan, servicers may re-initiate foreclosure using a non-judicial process. However, the maximum allowed for foreclosure attorney fees will be capped at the amount VA allows for judicial foreclosure in the applicable state. Servicers may request reimbursement for judicial fees and costs by submitting an appeal through the *Appealed Paid Claim* section in the VA Loan Electronic Reporting Interface (VALERI). The submission must explain that the servicer requests the reimbursement for an in-flight foreclosure under section 5. of this Circular.

On or after August 11, 2026, servicers should no longer initiate a judicial foreclosure solely because the property secures a partial claim interest held by VA, if the property is in a state where the non-judicial process is allowed for foreclosing a home loan.

6. Questions. Any questions regarding this Circular should be submitted via ServiceNow.

7. Rescission. This Circular is valid until rescinded.

By Direction of the Under Secretary for Benefits

Patrick J. Zondervan
Executive Director
Loan Guaranty Service

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[4] VA launched the new section 3737 Partial Claim Program in summer 2026.