

[First Reprint]
SENATE, No. 1604

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

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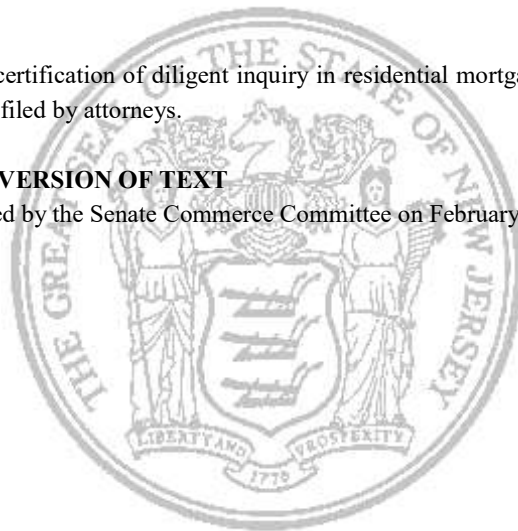
Assemblywomen McKnight, Jasey and Assemblyman Stanley

SYNOPSIS

Requires certification of diligent inquiry in residential mortgage foreclosure actions to be filed by attorneys.

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee on February 11, 2021, with amendments.



(Sponsorship Updated As Of: 12/20/2021)

1 AN ACT concerning residential mortgage foreclosures and
 2 supplementing P.L.1995, c.244 (C.2A:50-53 et seq.).

3

4 BE IT ENACTED by the Senate and General Assembly of the State
 5 of New Jersey:

6

7 1. a. In addition to any other requirements under law,
 8 regulation or court rule, in all residential mortgage foreclosure
 9 actions, an attorney filing a foreclosure complaint shall include a
 10 certification of diligent inquiry. The certification of diligent inquiry
 11 shall certify:

12 (1) that the attorney has communicated with an employee or
 13 employees of the plaintiff 'or of the plaintiff's mortgage loan
 14 servicer' who: (a) personally reviewed the **'[documents being**
 15 **submitted to support the]'** complaint 'and confirmed the accuracy
 16 of its content, based on business records kept in the regular course
 17 of business by the plaintiff or the plaintiff's mortgage loan servicer,
 18 and who, if employed by the plaintiff's mortgage loan servicer,
 19 identified the relationship between the mortgage loan servicer and
 20 the plaintiff'; and (b) confirmed the **'[accuracy of the documents]**
 21 authority of the mortgage loan servicer to act on behalf of the
 22 plaintiff';

23 (2) the names and titles, and the responsibilities in those titles,
 24 of the plaintiff's 'or plaintiff's mortgage loan servicer's' employees
 25 with whom the attorney communicated pursuant to paragraph (1) of
 26 this section 'and the date and mode of communication employed to
 27 contact them';

28 (3) that the attorney has reviewed the facts of the case and that,
 29 based on the information received pursuant to this section and the
 30 attorney's review of the pertinent documents, to the best of the
 31 attorney's knowledge, information and belief there is a reasonable
 32 basis for the commencement of the action and that the plaintiff is
 33 currently the residential mortgage lender entitled to enforce rights
 34 under those documents; and

35 (4) that the attorney is aware that the failure to comply with the
 36 provisions of this section may result in the penalties provided for in
 37 subsection b. of this section or, where the failure constitutes a
 38 violation of the Rules of Professional Conduct, may include
 39 sanctions imposed by the Supreme Court of New Jersey.

40 b. If the court finds that the plaintiff has failed to comply with
 41 the provisions of subsection a. of this section, the court may dismiss
 42 the complaint**'[**, with or without prejudice,**']'** or deny the accrual of
 43 any **'[interest,]'** costs, attorney's fees and other fees relating to the
 44 mortgage debt.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted February 11, 2021.

- 1 2. This act shall take effect immediately and shall apply to
- 2 mortgage foreclosure actions filed on or after the effective date.