

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3036

STATE OF NEW JERSEY

DATED: JANUARY 25, 2021

The Assembly Judiciary Committee reports favorably Assembly Bill No. 3036.

This bill would require a plaintiff to obtain an affidavit of merit in a malpractice suit against an enrolled agent.

Enrolled agent status is the highest credential the IRS awards, and authorizes a tax practitioner to represent taxpayers before the IRS. Enrolled agents are required to either have previous experience within the IRS, or to pass a three-part test which covers both individual and business tax returns. Additionally, the IRS requires enrolled agents to complete 72 hours of continuing education courses every three years, and to comply with IRS ethical standards.

P.L.1995, c.139 (C.2A:53A-26 et seq.) requires a plaintiff in a malpractice or negligence suit against a licensed professional to file an affidavit of merit. An affidavit of merit is an affidavit by another professional in the field that there is a reasonable probability that the actions of the defending professional fell outside the bounds of the acceptable standards in that field. The statute is intended to ensure that people providing professional services are insulated from frivolous malpractice lawsuits. An affidavit of merit must be submitted within 60 days after the answer to the complaint is filed, or the lawsuit will be dismissed.

Currently, the statute encompasses attorneys, accountants, architects, and a host of other professionals. This bill would extend the protection of the statute to enrolled agents.