

# SENATE, No. 1604

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex and Morris)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



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 who: (a) personally reviewed the  
14 documents being submitted to support the complaint; and (b)  
15 confirmed the accuracy of the documents;

16 (2) the names and titles, and the responsibilities in those titles,  
17 of the plaintiff's employees with whom the attorney communicated  
18 pursuant to paragraph (1) of this section;

19 (3) that the attorney has reviewed the facts of the case and that,  
20 based on the information received pursuant to this section and the  
21 attorney's review of the pertinent documents, to the best of the  
22 attorney's knowledge, information and belief there is a reasonable  
23 basis for the commencement of the action and that the plaintiff is  
24 currently the residential mortgage lender entitled to enforce rights  
25 under those documents; and

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

31 b. If the court finds that the plaintiff has failed to comply with  
32 the provisions of subsection a. of this section, the court may dismiss  
33 the complaint, with or without prejudice, or deny the accrual of any  
34 interest, costs, attorney's fees and other fees relating to the  
35 mortgage debt.  
36

37 2. This act shall take effect immediately and shall apply to  
38 mortgage foreclosure actions filed on or after the effective date.  
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#### 41 STATEMENT

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43 This bill supplements the "Fair Foreclosure Act," P.L.1995,  
44 c.244 (C.2A:50-53 et seq.) by codifying aspects of New Jersey  
45 Court Rule 4:64-1 regarding certifications of diligent inquiry.  
46 Specifically, the bill provides that, in addition to any other  
47 requirements under law, regulation or court rule, in all residential  
48 mortgage foreclosure actions, an attorney filing a foreclosure

1 complaint shall include a certification of diligent inquiry.

2 The certification of diligent inquiry shall certify:

3 (1) that the attorney has communicated with an employee or  
4 employees of the plaintiff who: (a) personally reviewed the  
5 documents being submitted to support the complaint; and (b)  
6 confirmed the accuracy of the documents;

7 (2) the names and titles, and the responsibilities in those titles,  
8 of the plaintiff's employees with whom the attorney communicated;

9 (3) that the attorney has reviewed the facts of the case, and  
10 supporting documents, and to the best of the attorney's knowledge,  
11 information and belief there is a reasonable basis for the  
12 commencement of the action and that the plaintiff is currently the  
13 creditor entitled to enforce rights under the documents; and

14 (4) that the attorney is aware that the failure to comply with the  
15 provisions of the bill may result in the penalties provided for in the  
16 bill or, where the failure constitutes a violation of the Rules of  
17 Professional Conduct, may include sanctions imposed by the  
18 Supreme Court of New Jersey.

19 The bill also stipulates that the court may, if it finds that the  
20 plaintiff has failed to comply with the provisions of the bill, dismiss  
21 the complaint or deny the accrual of any interest, costs, attorney's  
22 fees and other fees relating to the mortgage debt.