

[First Reprint]

**SENATE, No. 1604**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex and Morris)**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**Assemblyman GARY S. SCHAEER**

**District 36 (Bergen and Passaic)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

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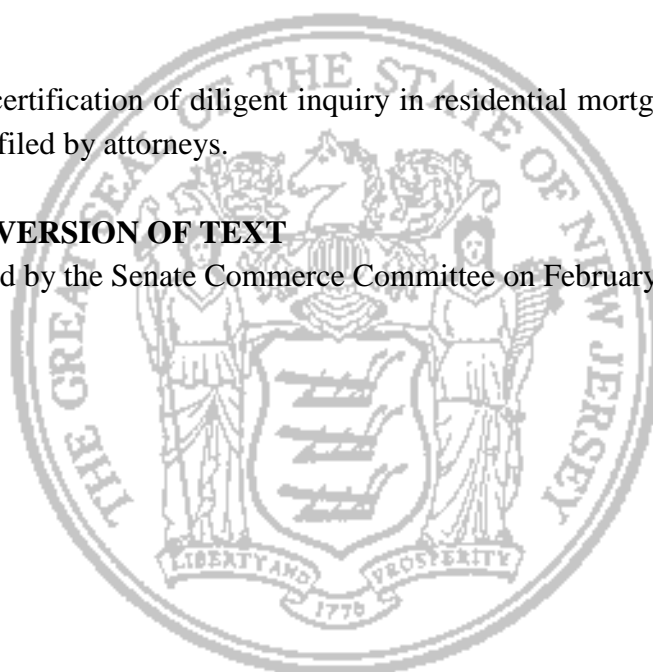
**Assemblywomen McKnight, Jasey and Assemblyman Stanley**

**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.).  
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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 <sup>1</sup>or of the plaintiff's mortgage loan  
 14 servicer<sup>1</sup> who: (a) personally reviewed the <sup>1</sup>**documents being**  
 15 **submitted to support the**<sup>1</sup> complaint <sup>1</sup>**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**<sup>1</sup>; and (b) confirmed the <sup>1</sup>**accuracy of the documents**  
 21 **authority of the mortgage loan servicer to act on behalf of the**  
 22 **plaintiff**<sup>1</sup>;

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

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<sup>1</sup>**], with or without prejudice,**<sup>1</sup> or deny the accrual of  
 43 any <sup>1</sup>**interest,**<sup>1</sup> 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:

<sup>1</sup>Senate SCM committee amendments adopted February 11, 2021.

**S1604** [1R] CODEY, POU

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