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**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

RWH/JA



P.L. 2021, CHAPTER 337, *approved January 10, 2022*  
Senate, No. 1604 (*First Reprint*)

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 <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.

**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]**

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1       b. If the court finds that the plaintiff has failed to comply with  
2 the provisions of subsection a. of this section, the court may dismiss  
3 the complaint<sup>1</sup> **[**, with or without prejudice,**]**<sup>1</sup> or deny the accrual of  
4 any <sup>1</sup>**[**interest,**]**<sup>1</sup> costs, attorney's fees and other fees relating to the  
5 mortgage debt.

6

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

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

## CHAPTER 337

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

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

C.2A:50-56.4 Certification of diligent inquiry.

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

(1) that the attorney has communicated with an employee or employees of the plaintiff or of the plaintiff's mortgage loan servicer who: (a) personally reviewed the complaint and confirmed the accuracy of its content, based on business records kept in the regular course of business by the plaintiff or the plaintiff's mortgage loan servicer, and who, if employed by the plaintiff's mortgage loan servicer, identified the relationship between the mortgage loan servicer and the plaintiff; and (b) confirmed the authority of the mortgage loan servicer to act on behalf of the plaintiff;

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

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

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

b. If the court finds that the plaintiff has failed to comply with the provisions of subsection a. of this section, the court may dismiss the complaint or deny the accrual of any costs, attorney's fees and other fees relating to the mortgage debt.

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

Approved January 10, 2022.

**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.



S1604 CODEY

2

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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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



**S1604 CODEY**

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.

# ASSEMBLY HOUSING COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 1604**

# **STATE OF NEW JERSEY**

DATED: MAY 5, 2021

The Assembly Housing Committee reports favorably Senate Bill No. 1604 (1R).

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

The certification of diligent inquiry shall certify:

(1) that the attorney has communicated with an employee or employees of the plaintiff or of the plaintiff’s mortgage loan service who: (a) personally reviewed the complaint and confirmed the accuracy of its content, based on business records kept in the regular course of business by the plaintiff or the plaintiff’s mortgage loan servicer, and who, if employed by the plaintiff’s mortgage loan servicer, identified the relationship between the mortgage loan servicer and the plaintiff; and (b) confirmed the authority of the mortgage loan servicer to act on behalf of the plaintiff;

(2) the names and titles, and the responsibilities in those titles, of the plaintiff’s employees or plaintiff’s mortgage loan servicer’s employees with whom the attorney communicated and the date and mode of communication employed to contact them;

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

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

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

As reported by the committee, Senate Bill No. 1604 (1R) is identical to Assembly Bill No. 2808, which was also reported by the committee on this date with committee amendments.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### **SENATE, No. 1604**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 11, 2021

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1604.

As amended, this bill supplements the “Fair Foreclosure Act,” P.L.1995, c.244 (C.2A:50-53 et seq.) by codifying aspects of New Jersey Court Rule 4:64-1 regarding certifications of diligent inquiry. Specifically, the bill provides that, in addition to any other requirements under law, regulation or court rule, in all residential mortgage foreclosure actions, an attorney filing a foreclosure complaint shall include a certification of diligent inquiry.

The certification of diligent inquiry shall certify:

(1) that the attorney has communicated with an employee or employees of the plaintiff or of the plaintiff’s mortgage loan service who: (a) personally reviewed the complaint and confirmed the accuracy of its content, based on business records kept in the regular course of business by the plaintiff or the plaintiff’s mortgage loan servicer, and who, if employed by the plaintiff’s mortgage loan servicer, identified the relationship between the mortgage loan servicer and the plaintiff; and (b) confirmed the authority of the mortgage loan servicer to act on behalf of the plaintiff;

(2) the names and titles, and the responsibilities in those titles, of the plaintiff’s employees or plaintiff’s mortgage loan servicer’s employees with whom the attorney communicated and the date and mode of communication employed to contact them;

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

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

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

COMMITTEE AMENDMENTS:

The committee amended the bill to incorporate certain language from New Jersey Court Rule 4:64-1, aspects of which this bill already codifies.

# ASSEMBLY, No. 2808

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

**Sponsored by:**

**Assemblyman GARY S. SCHAER**

**District 36 (Bergen and Passaic)**

**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.).  
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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:  
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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  
42

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:

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5 documents being submitted to support the complaint; and (b)  
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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.



# ASSEMBLY HOUSING COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 2808

with committee amendments

# STATE OF NEW JERSEY

DATED: MAY 5, 2021

The Assembly Housing Committee reports favorably Assembly Bill No. 2808, with committee amendments.

As amended, this bill supplements the “Fair Foreclosure Act,” P.L.1995, c.244 (C.2A:50-53 et seq.) by codifying aspects of New Jersey Court Rule 4:64-1 regarding certifications of diligent inquiry. Specifically, the bill provides that, in addition to any other requirements under law, regulation or court rule, in all residential mortgage foreclosure actions, an attorney filing a foreclosure complaint shall include a certification of diligent inquiry.

The certification of diligent inquiry shall certify:

(1) that the attorney has communicated with an employee or employees of the plaintiff or of the plaintiff’s mortgage loan service who: (a) personally reviewed the complaint and confirmed the accuracy of its content, based on business records kept in the regular course of business by the plaintiff or the plaintiff’s mortgage loan servicer, and who, if employed by the plaintiff’s mortgage loan servicer, identified the relationship between the mortgage loan servicer and the plaintiff; and (b) confirmed the authority of the mortgage loan servicer to act on behalf of the plaintiff;

(2) the names and titles, and the responsibilities in those titles, of the plaintiff’s employees or plaintiff’s mortgage loan servicer’s employees with whom the attorney communicated and the date and mode of communication employed to contact them;

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

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

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

As amended and reported by the committee Assembly Bill No. 2808 is identical to Senate Bill No. 1604 (1R), which was also reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amended the bill to incorporate certain language from New Jersey Court Rule 4:64-1, aspects of which this bill already codifies.