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.