

SB9 ENROLLED



1 SB9
2 65NR33-3
3 By Senator Coleman-Madison
4 RFD: County and Municipal Government
5 First Read: 06-Feb-24
6 PFD: 03-Jan-24



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1 Enrolled, An Act,

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4 Relating to Class 1 municipalities; to authorize Class

5 1 municipalities to enforce local and state building

6 maintenance regulations by judicial in rem foreclosure of

7 municipal code enforcement and nuisance abatement liens on

8 certain property; and to authorize Class 1 municipalities to

9 recover the amount of unpaid municipal code and nuisance

10 abatement liens and the cost of municipal code enforcement

11 upon the court-ordered sale of certain property.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. For purposes of this act, the following

14 terms have the following meanings:

15 (1) INTERESTED PARTY. Any of the following:

16 a. The person who last appears as owner of a particular
17 real property in the office of the judge of probate's property
18 records.

19 b. The current mortgagee of record of the real property
20 or assignee of record of the mortgagee.

21 c. The current holder of a beneficial interest in a
22 deed of trust recorded against the real property.

23 d. A tax certificate holder.

24 e. A tax sale purchaser that holds a deed of purchase
25 in accordance with Section 40-10-29, Code of Alabama 1975.

26 f. A tax lien purchaser that holds a tax lien
27 certificate in accordance with Section 40-10-187, Code of
28 Alabama 1975.



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29 g. Any party having an interest in the real property,
30 in whole or in part, legal or equitable, in severalty or as
31 tenant in common, whose identity and address is reasonably
32 ascertainable from the records of the Class 1 municipality or
33 records maintained in the county office of the judge of
34 probate or as revealed by a full title search, consisting of
35 60 years or more.

36 h. An interested party shall not include the holder of
37 the benefit of an easement that burdens the real property, the
38 holder of the benefit or burden of a real covenant that
39 burdens the real property, or the holder of the benefit of a
40 utility easement that burdens the real property.

41 (2) MINIMUM BID PRICE. The price that equals the
42 redemption amount.

43 (3) MUNICIPAL CODE LIEN. Any lien that has been levied
44 against real property by a Class 1 municipality due to the
45 nonpayment of any fine, penalty, abatement cost, assessment,
46 or enforcement cost incurred by a Class 1 municipality related
47 to the enforcement of state or local housing and building
48 codes or a lien arising from the abatement of nuisances by the
49 Class 1 municipality. The term shall apply only to those liens
50 that arise out of a failure to comply with any of the
51 following or from the failure to comply with a Class 1
52 municipality's ordinances enacted pursuant to the authority
53 granted in any of the following:

54 a. Article 2 of Chapter 40 of Title 11, Code of Alabama
55 1975.

56 b. Sections 11-47-117 and 11-47-118, Code of Alabama



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57 1975.

58 c. Sections 11-47-130, 11-47-131, and 11-47-140, Code
59 of Alabama 1975.

60 d. Chapter 53 of Title 11, Code of Alabama 1975.

61 e. Chapter 53B of Title 11, Code of Alabama 1975.

62 f. Article 4 of Chapter 67 of Title 11, Code of Alabama
63 1975.

64 g. Section 45-37A-53, Code of Alabama 1975.

65 (4) MUNICIPAL CODE LIEN PAYOFF. An amount equal to the
66 sum of the following:

67 a. The principal amount of a municipal code lien.

68 b. Interest accrued at the rate of six percent per
69 annum from the date the municipal code lien was filed in the
70 judge of probate's office unless a different rate and date of
71 accrual is specified by statute.

72 c. Any fees or costs incurred in the collection of a
73 lien under this act including, without limitation, the cost of
74 title examinations and publication of notices.

75 d. Any attorney fees, filing fees, and court costs
76 incurred in a judicial in rem foreclosure proceeding under
77 this act.

78 e. Any other penalties authorized under state law or
79 pursuant to an ordinance enacted by a Class 1 municipality.

80 (5) OWNER-OCCUPIED. Real property that is lawfully
81 occupied as a principal residence of the owner of record or of
82 a family member of a deceased individual who was the owner of
83 record at the time of his or her death, and that is any of the
84 following:



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85 a. A homestead as provided in Section 40-9-19, Code of
86 Alabama 1975.

87 b. Exempt from ad valorem taxation under Sections
88 40-9-19.1, 40-9-20, or 40-9-21, Code of Alabama 1975.

89 c. Eligible for, but not yet granted, either of the
90 designations set forth in paragraph a. or b.

91
92 (6) REDEMPTION AMOUNT. The sum of the following:

93 a. The full amount of the municipal code lien payoff
94 for each municipal code lien on which a Class 1 municipality
95 is seeking to foreclose under this act.

96 b. Any tax payoff that may be applicable to the
97 property on which the Class 1 municipality is seeking to
98 foreclose under this act.

99 (7) TAX CERTIFICATE HOLDER. Any of the following:

100 a. A tax sale purchaser that holds a certificate of
101 purchase pursuant to Section 40-10-19, Code of Alabama 1975.

102 b. The state, in the event that it has accepted and
103 recorded a certificate of purchase obtained at a tax sale
104 pursuant to Section 40-10-20, Code of Alabama 1975.

105 c. A county, in the event that a tax lien not sold at a
106 tax lien auction of real property situated in the county is
107 retained by the county pursuant to Section 40-10-199, Code of
108 Alabama 1975.

109 d. Any party to which a certificate of purchase
110 obtained at a tax sale has been assigned pursuant to Section
111 40-10-21, Code of Alabama 1975.

112 e. The purchaser or assignee of a tax lien certificate



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113 as provided in Section 40-10-187, Code of Alabama 1975.

114 (8) TAX PAYOFF. All amounts necessary to satisfy any
115 claims for delinquent taxes assessed against the real property
116 on which a Class 1 municipality is seeking to foreclose under
117 this act. These amounts shall include all of the following:

118 a. If the taxes associated with the property are
119 delinquent pursuant to Sections 40-11-4 or 11-51-2, Code of
120 Alabama 1975, but the property has not yet been sold for
121 taxes, then the full amount of delinquent taxes, costs, fees,
122 and charges due to the county tax collector pursuant to
123 Section 40-5-8, Code of Alabama 1975.

124 b. If the property has been sold to the state for
125 taxes, then those amounts required for redemption as provided
126 in Sections 40-10-83, 40-10-120, 40-10-121, and 40-10-122,
127 Code of Alabama 1975, except that when a Class 1 municipality
128 is the prevailing bidder, the tax payoff amount shall be the
129 lesser of these amounts or the amount provided by Section
130 40-10-132(a)(2), Code of Alabama 1975.

131 c. If the property has been sold for taxes to a party
132 other than the state, then those amounts required for
133 redemption as provided in Sections 40-10-83, 40-10-120,
134 40-10-121, and 40-10-122, Code of Alabama 1975.

135 d. If a tax lien has been sold by a county pursuant to
136 Section 40-10-182, Code of Alabama 1975, then the amount
137 required for redemption pursuant to Section 40-10-193, Code of
138 Alabama 1975.

139 (9) TAXES. The taxes assessed against real property by
140 either the state, the county, or a Class 1 municipality in



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141 which the real property is situated which are delinquent
142 pursuant to Sections 40-11-4 or 11-51-2, Code of Alabama 1975,
143 as of the date a proceeding under this act is commenced or at
144 any time before final resolution of the same and shall include
145 any taxes assessed against real property that are unpaid from
146 any previous year and any amounts required for redemption
147 pursuant to Sections 40-10-83, 40-10-120, 40-10-193, or
148 11-51-23, Code of Alabama 1975. As provided in Section
149 11-51-6, Code of Alabama 1975, a lien for taxes shall be
150 superior to all other liens, including municipal code liens.

151 Section 2. (a) This act applies only to Class 1
152 municipalities.

153 (b) This act shall not apply to owner-occupied
154 property.

155 Section 3. (a) Notwithstanding any law to the contrary,
156 any fees, penalties, and abatement costs imposed against real
157 property for abatement of nuisances or violations of a Class 1
158 municipality's housing and building codes adopted pursuant to
159 state law, other than owner-occupied property, may be enforced
160 in rem as a lien pursuant to this act.

161 (b) Unless otherwise specified by law, municipal code
162 liens may be filed in the judge of probate's office for the
163 county where the real property is situated.

164 (c) Every municipal code lien shall be superior to all
165 other liens except those liens for taxes pursuant to Section
166 11-51-6, Code of Alabama 1975.

167 Section 4. (a) A Class 1 municipality may proceed with
168 judicial in rem foreclosures of municipal code liens in



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169 accordance with this act by enacting an ordinance of the
170 governing body of the Class 1 municipality where the real
171 property is situated, which ordinance shall be sufficient
172 authority for use of this act by the Class 1 municipality to
173 enforce its municipal code liens.

174 (b) The ordinance of a Class 1 municipality authorizing
175 and approving the use of this act shall set forth all of the
176 following:

177 (1) The initial effective date for application of these
178 procedures.

179 (2) If the Class 1 municipality elects not to apply
180 these procedures to all real properties as of the same initial
181 effective date, it shall specify all of the following:

182 a. Which real properties are subject to these
183 procedures.

184 b. The order in which the real properties shall be
185 subject to these procedures.

186 c. The time and manner of determining paragraphs a. and
187 b.

188 (3) The explicit exclusion of owner-occupied properties
189 from the application of the judicial in rem foreclosure
190 procedures authorized under this act.

191 (4) Any other matters related to code enforcement that
192 the Class 1 municipality designates for administrative
193 regulation.

194 (c) The provisions of a Class 1 municipality ordinance
195 and administrative regulations issued pursuant to the
196 ordinance shall not conflict with Sections 5 through 8 of this



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197 act.

198 (d) Proceedings in accordance with this act are
199 intended solely to enforce the municipal code lien for real
200 property subject to the lien and shall not constitute an
201 action for personal liability of the owner or owners of the
202 real property to which the lien applies.

203 (e) The rights and remedies provided in this act are
204 available solely to the governmental entities authorized by
205 law to enforce municipal ordinances and shall not extend to
206 any nongovernmental transferee of municipal code liens.

207 (f) A Class 1 municipality that has adopted the
208 provisions of this act by ordinance and that seeks to enforce
209 a municipal code lien through the sale of real property shall
210 utilize the judicial in rem proceedings authorized under this
211 act as the sole remedy for the enforcement through the sale of
212 real property.

213 (g) The enforcement proceedings authorized under this
214 act may be initiated only by a Class 1 municipality.

215 (h) A municipal code lien shall not include any lien
216 that has previously been certified to the tax collector of the
217 county for inclusion on the property tax bill associated with
218 the real property, such as those liens certified pursuant to
219 Section 11-67-66 or Section 45-37A-53, Code of Alabama 1975,
220 or any other applicable local act.

221 Section 5. (a) (1) After a municipal code lien has been
222 recorded with the office of the judge of probate for the
223 county in which the real property is situated, the governing
224 body of a Class 1 municipality may identify by resolution



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225 those properties on which to commence a judicial in rem
226 foreclosure pursuant to this act, provided, however, that
227 those properties the Class 1 municipality identifies as
228 owner-occupied shall not be subject to judicial in rem
229 foreclosure.

230 (2) A Class 1 municipality shall not file a petition
231 for judicial in rem foreclosure pursuant to this act for a
232 period of six months following the date upon which the
233 municipal code lien is recorded in the office of the judge of
234 probate. A petition for judicial in rem foreclosure may
235 include any other municipal code lien that has been filed
236 against the subject property prior to the date the petition is
237 filed. After enforcement proceedings have commenced, the
238 enforcement proceedings may be amended to include any
239 subsequently arising municipal code liens and, if applicable,
240 any taxes.

241 (b) If the property on which a Class 1 municipality is
242 seeking to foreclose is subject to taxes, then at least 60
243 days prior to the filing of the petition the Class 1
244 municipality shall notify all other taxing entities within the
245 jurisdiction of the Class 1 municipality and the state of its
246 intention to file a petition for judicial in rem foreclosure
247 of the real property on which a municipal code lien exists.
248 Upon notification, the county tax collector shall provide the
249 tax payoff amount.

250 (c) A Class 1 municipality shall initiate an action to
251 foreclose a code enforcement lien pursuant to this act by
252 filing a petition with the clerk of the circuit court for the



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253 judicial circuit in which the real property is situated. The
254 petition shall be substantially identical in form and content
255 to the form provided in subsection (j). The case shall be
256 docketed in the circuit court by the clerk where it shall be a
257 preferred case. The circuit court in which a petition is filed
258 under this subsection shall immediately set the date, time,
259 and place for a hearing on the petition.

260 (d) Upon filing the petition, a Class 1 municipality
261 shall record an appropriate lis pendens in the office of the
262 judge of probate of the county in which the real property is
263 situated. The lis pendens shall include all of the following
264 information pertaining to the real property:

- 265 (1) The legal description.
- 266 (2) The tax identification number of the real property.
- 267 (3) The street address if available.
- 268 (4) A statement that the property is subject to
269 judicial in rem foreclosure proceedings under this act.
- 270 (5) A statement that those proceedings may extinguish
271 any legal interests in the property.

272 (e) The petition shall be filed against the real
273 property to which the recorded municipal code lien pertains
274 and shall provide all of the following pertaining to the real
275 property:

- 276 (1) The identity of the Class 1 municipality.
- 277 (2) A legal description.
- 278 (3) The tax identification number of the property.
- 279 (4) The street address if available.
- 280 (5) A description of the municipal code lien that is



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281 being foreclosed.

282 (6) The principal amount of the municipal code lien and
283 any applicable interest and penalties.

284 (7) The principal amount of any additional municipal
285 code liens against the property and any applicable interest
286 and penalties in accordance with subsection (a).

287 (8) The year or years for which the taxes are
288 delinquent, if any.

289 (9) The principal amount of the taxes and any interest
290 and penalties.

291 (10) The tax payoff amount.

292 (11) A statement that upon final sale in accordance
293 with this section and payment of any applicable tax payoff
294 amount, an interested party's rights of redemption under
295 Chapter 10 of Title 40, Chapter 51 of Title 11, Section
296 11-53B-10, or Section 11-48-54, Code of Alabama 1975, shall be
297 extinguished.

298 (12) The names and addresses of all interested parties
299 to whom copies of the petition shall be sent pursuant to
300 subsection (f).

301 (13) A deraignment of title for a period of at least 60
302 years before filing the complaint, unless the court otherwise
303 directs, setting forth the book and page of the records where
304 any instrument affecting the title may be recorded.

305 (f) (1) A Class 1 municipality shall mail copies of the
306 petition by both certified mail, return receipt requested, and
307 by regular mail to all interested parties whose identities and
308 addresses are reasonably ascertainable.



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309 (2) Copies of the petition shall also be mailed by
310 first-class mail to the real property address to the attention
311 of the occupants of the property, if any.

312 (3) In addition, notice shall be physically posted on
313 the real property and shall include the following statement:
314 "THIS PROPERTY IS SUBJECT TO A JUDICIAL IN REM FORECLOSURE
315 ACTION AND MAY BE TRANSFERRED TO [NAME OF CLASS 1
316 MUNICIPALITY] OR ANOTHER PARTY. PERSONS WITH INFORMATION
317 REGARDING THE CURRENT OWNER OF THE PROPERTY ARE REQUESTED TO
318 CONTACT [NAME OF CLASS 1 MUNICIPALITY]."

319 (g) If a Class 1 municipality finds reason to believe
320 that the real property is owner-occupied after the filing of
321 the petition, the Class 1 municipality shall immediately seek
322 dismissal of its petition.

323 (h) Within 30 days after filing the petition, a Class 1
324 municipality shall cause a notice of the filing to be
325 published once each week for three consecutive weeks in a
326 newspaper of general circulation in the county in which the
327 property is located. The notice shall specify the name and
328 address of the Class 1 municipality and the following
329 pertaining to the real property:

330 (1) The legal description.

331 (2) The tax identification number.

332 (3) The street address if available.

333 (4) A description of any applicable municipal code lien
334 that is being foreclosed.

335 (5) The principal amount of any municipal code lien and
336 any interest and penalties.



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337 (6) The applicable period of tax delinquency, if any.

338 (7) The principal amount of taxes, if any.

339 (8) Upon deposit by the court of any tax payoff amounts
340 with the appropriate parties, any rights of redemption
341 accorded to interested parties under Chapter 10 of Title 40,
342 Chapter 51 of Title 11, Section 11-53B-10, or Section
343 11-48-54, Code of Alabama 1975, are extinguished.

344 (9) The date and place of the filing of the petition.

345 (i) If the identity of some or all of the individuals
346 who may have an interest in the real property are unknown, or
347 if they are minors or individuals of unsound mind, the court
348 shall appoint a guardian ad litem to represent and defend the
349 interests of the unknown, minors, or incompetent parties in
350 the action.

351 (j) The municipality, by ordinance, may adopt forms to
352 implement and administer this section.

353 Section 6. (a) (1) A Class 1 municipality shall request
354 that a judicial hearing on the petition occur not earlier than
355 30 days nor later than 90 days following the filing of the
356 petition.

357 (2) At the judicial hearing, any interested party shall
358 have the right to be heard and to contest the delinquency of
359 the municipal code lien, the adequacy of the proceedings, the
360 classification of the real property as owner-occupied, and the
361 amount of the tax payoff.

362 (b) If the court determines that the information set
363 forth in the petition is accurate, the court shall render its
364 judgment and shall order all of the following:



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365 (1) The municipal code lien is delinquent.

366 (2) The amounts of any additional municipal code liens
367 and taxes described in the petition are delinquent.

368 (3) Proper notice has been given to all interested
369 parties.

370 (4) The property is not owner-occupied.

371 (5) The property as described in the petition be sold
372 in accordance with the provisions of this act.

373 (6) The sale shall become final and binding immediately
374 after the sale is conducted in accordance with Section 8.

375 (c) The order of the court shall provide that the real
376 property be sold free and clear of all liens, claims, and
377 encumbrances other than all of the following:

378 (1) Rights of redemption provided under federal law.

379 (2) Taxes assessed against the property that are due
380 but not yet delinquent as of the date of the court's order.

381 (3) Any easement that burdens the property, any real
382 covenant that burdens the property, and any utility easement
383 that benefits the property as of the date of the filing of the
384 municipal code lien on which the Class 1 municipality is
385 seeking to foreclose under this act.

386 (d) If at any point in the proceedings the court
387 determines that the real property is owner-occupied, then the
388 Class 1 municipality shall seek immediate dismissal of the
389 proceedings.

390 Section 7. (a) At any point prior to the conclusion of
391 the sale described in Section 8(a), any interested party may
392 redeem the real property from the sale by payment of the



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393 redemption amount. Payment shall be made to the Class 1
394 municipality. Following receipt of the redemption payment, the
395 Class 1 municipality shall file for dismissal of the
396 proceedings.

397 (b) In the event that the owner of the real property
398 pays the redemption amount, the proceedings shall be
399 dismissed, and the rights and interests of all interested
400 parties shall remain unaffected.

401 (c) In the event of a redemption payment by any
402 interested party other than the owner, the party making the
403 payment shall possess a lien on the real property for the full
404 amount of the payment, which lien shall have the same priority
405 as the municipal code lien described in Section 3(c). The
406 lienholder shall have the right to enforce the lien as
407 permitted to the holder of any lien under existing law. The
408 lienholder shall not otherwise succeed to the rights of the
409 Class 1 municipality or tax certificate holder.

410 Section 8. (a) Following the hearing and order of the
411 court in accordance with Section 7, the court shall cause a
412 sale of the real property to be advertised and conducted by
413 the court in a manner similar to the procedure described in
414 Section 40-10-15, Code of Alabama 1975. The sale shall not
415 occur earlier than 45 days following the date of the order of
416 the court.

417 (b) (1) Except as otherwise authorized by law, the
418 minimum bid price for the sale of the real property shall be
419 the redemption amount.

420 (2)a. In the absence of any bid higher than the minimum



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421 bid price, the court or its designee shall bid in for the
422 property on behalf of the Class 1 municipality or its designee
423 in an amount equal to the minimum bid price, causing the Class
424 1 municipality to become the purchaser at the sale pursuant to
425 Section 7.

426 b. A bid in on behalf of the Class 1 municipality or
427 its designee shall be tendered as a credit bid for the portion
428 of the minimum bid price equal to the municipal code lien
429 payoff. If the minimum bid price bid in by the Class 1
430 municipality includes a tax payoff amount, the Class 1
431 municipality shall tender the amount of the tax payoff to the
432 court, which, together with the municipal code lien payoff,
433 shall satisfy the full amount of the minimum bid price.

434
435 (c) Payment of the winning bid shall be due immediately
436 after the sale is conducted. The proceeds of the foreclosure
437 sale shall be distributed in the following manner:

438 (1) If the purchaser is a party other than the Class 1
439 municipality, the court or its designee shall deposit with the
440 Class 1 municipality the amount of the proceeds equal to the
441 municipal code lien payoff, less any costs incurred or fees
442 charged by the office of the judge of probate.

443 (2) If the purchaser is the Class 1 municipality, then
444 the Class 1 municipality shall tender to the court an amount
445 equal to any costs incurred by the court that are included in
446 the amount of the municipal code lien payoff.

447 (3) If the minimum bid price includes a tax payoff
448 amount, the court shall deposit the amounts paid with the



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449 appropriate parties in accordance with Sections 40-5-10,
450 40-10-128, 40-10-129, and 40-10-193, Code of Alabama 1975, and
451 any applicable local laws.

452 (4) In the event that the foreclosure sale price
453 exceeds the minimum bid price, the surplus shall be
454 distributed by the court to the interested parties, including
455 the owner, as their interests appear and in the order of
456 priority in which their interests exist.

457 (d) Upon deposit by the court of any tax payoff amounts
458 with the appropriate parties as described in subdivision
459 (d) (3), any and all rights of redemption accorded to
460 interested parties under Chapter 10 of Title 40, Chapter 51 of
461 Title 11, Section 11-53B-10, or Section 11-48-54, Code of
462 Alabama 1975, are extinguished.

463 (e) From and after the moment of the sale, the sale
464 shall be final and binding.

465 (f) Within 90 days following the date of the sale, the
466 court shall cause to be executed a deed to the real property
467 identified in the petition. Upon execution, the court shall
468 cause the deed to be recorded with the office of the judge of
469 probate.

470 (g) Within 90 days following the date of the sale, the
471 Class 1 municipality shall file a report of the sale with the
472 clerk of the circuit court, which report shall identify
473 whether a sale took place, the foreclosure sale price, and the
474 identity of the purchaser.

475 (h) The municipality by ordinance, may adopt forms to
476 implements and administer this section.



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477 Section 9. This act shall become effective on October
478 1, 2024.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

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Senate 04-Apr-24

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives

Passed: 25-Apr-24

By: Senator Coleman-Madison