

§4722. Maine State Housing Authority established; powers, duties and restrictions

The Maine State Housing Authority is established and is a public body corporate and politic and an instrumentality of the State. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Powers and duties. In addition to the powers granted by section 4741, the Maine State Housing Authority shall have the powers and duties to:

A. Gather information and statistics on housing and housing-related socioeconomic conditions, using existing sources and data to the fullest extent possible and request reports and obtain information from all state departments, agencies, boards, commissions, authorities and instrumentalities about their respective expenditures for housing and housing-related services and facilities, and about their respective functions and activities related to the financing, construction, leasing or regulation of housing and housing-related services and facilities; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Develop plans, finance, conduct and encourage in cooperation with other public and private national, state, regional and local agencies, research and demonstration of model housing programs, dealing with, but not limited to, planning, styles of land use, types of building design, techniques of construction, finance techniques, municipal regulations and management procedures; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Provide or coordinate technical assistance and consultation about housing and housing-related activities for or on the behalf of the municipalities, private industry, municipal housing authorities, nonprofit housing corporations, state departments, agencies, boards, commissions, authorities and instrumentalities, the Judicial Department, other organizations and individuals; administer or operate housing or housing-related programs for or on the behalf of municipalities, municipal housing authorities, nonprofit housing corporations, state departments, agencies, boards, commissions, authorities, instrumentalities and the judicial branch and in so doing comply with the programmatic, regulatory or statutory standards as required by that entity, which may take precedence over the authority's eligibility requirements; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Prepare, publish and disseminate educational materials dealing with, but not limited to, the topics listed in paragraph B; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Encourage and coordinate effective use of existing and new resources and available services for housing; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Act as the public agency of the State for the purpose of accepting federal funds or other assistance, or funds or other assistance from any other source, in relation to housing activity and for those projects authorized under section 4741, subsection 2 and other relevant provisions of this chapter; [PL 2017, c. 234, §10 (AMD).]

G. Carry out renewal projects and all other powers and duties of an authority under chapter 203; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. Issue revenue bonds as provided in this chapter. The authority for the issuance of bonds in any subchapter of this chapter constitutes a complete, additional and alternative method for the issuance of bonds authorized by that subchapter. Any limitation or restriction as to the use of proceeds, total authorized amount of obligations or interest rate, or any other limitation or restriction, applies solely to bonds issued under the subchapter in which the limitation or restriction appears; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

I. Purchase, sell, service, pledge, invest in, hold, trade, accept as collateral or otherwise deal in, acquire or transfer, on any terms and conditions that the Maine State Housing Authority specifies, any mortgage loan, any mortgage pass-through certificate, any pledge including any pledge or mortgage revenue, any mortgage participation certificate or any other mortgage-backed or mortgage-related security. In connection with the purchase or sale of a mortgage loan or of a beneficial interest or participation in a mortgage loan, the Maine State Housing Authority may enter into one or more agreements providing for the custody, control and administration of the mortgage loan. Any such agreement may provide that:

(1) The Maine State Housing Authority or a financial institution will act as trustor, trustee or custodian under the agreement; and

(2) With respect to mortgage loans governed by the agreement, title to a mortgage loan, or to a beneficial interest or participation in a mortgage loan, is deemed to have been transferred on terms and to the extent specified in that agreement and that the effect of a sale of a beneficial interest or participation in a mortgage loan is the same as a sale of a mortgage loan; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

J. Adopt bylaws for the regulation of its affairs and the conduct of its business; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

K. Perform other functions necessary or useful for carrying out any of its powers, duties or purposes; [PL 2017, c. 234, §11 (AMD).]

L. Contract with any financial institution to make mortgage loans on behalf of the Maine State Housing Authority and to make mortgage loans without contracting with a financial institution. The mortgage loans must be made under one or more mortgage loan programs governed by standards established in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

The Maine State Housing Authority may also make construction loans, grants, noninterest-bearing loans, deferred payment loans, unsecured loans and other similar types of loans. Any mortgage loan made under this paragraph does not pledge the faith and credit of the State. Any bonds issued by the Maine State Housing Authority to finance mortgage loans authorized by this paragraph are subject to the limitations of sections 4905 and 4907; [PL 1993, c. 175, §5 (AMD).]

M. [PL 2017, c. 234, §12 (RP).]

N. With respect to any bonds that the Maine State Housing Authority is authorized to issue in accordance with the limitations and restrictions of this chapter, covenant and consent that the interest on the bonds will be includable, under the United States Internal Revenue Code of 1986, or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders under the United States Internal Revenue Code or any subsequent law. The powers conferred by this

paragraph are not subject to any limitations or restrictions of any law that may limit the Maine State Housing Authority's power to so covenant and consent.

- (1) Notwithstanding any other provision of this chapter, proceeds of bonds issued under this subsection may be used for persons other than persons of low income.
 - (2) The income on any bonds issued by the Maine State Housing Authority must be included in gross income under the Maine Income Tax Law if the income on those bonds is includable in the gross income of the holders of the bonds under the United States Internal Revenue Code of 1986, or any subsequent corresponding revenue law of the United States; [PL 2017, c. 288, Pt. B, §4 (AMD).]
- O. Issue or cause to be issued certificates or other instruments evidencing the holder's fractional undivided interest in a pool of mortgage loans. Whether or not the certificates or instruments are of such form or character as to be negotiable instruments under Title 11, article 8-A, the certificates or instruments are deemed negotiable instruments within the meaning of and for all the purposes of Title 11, article 8-A, subject only to any registration requirements that the Maine State Housing Authority may establish; [PL 2017, c. 234, §13 (AMD).]
- P. In accordance with the limitations and restrictions of this chapter, cause any of its powers or duties to be carried out by one or more nonprofit corporations organized and operated under Title 13-B; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
- Q. Modify or waive the requirements of section 4902, subsections 1 and 2, and section 4903; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
- R. Guarantee or ensure the timely payment in whole or part of principal on, premium on or interest of any bond or of any instrument or security identified in paragraph I or O; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
- S. Purchase, sell, service, pledge, invest in, hold, trade, accept as collateral, administer or otherwise deal in, acquire or transfer, contract for benefits to recipients on behalf of the Federal Government or otherwise and do those things necessary to issue or cause to be issued federal mortgage credit certificates as authorized and created by the Federal Tax Reform Act of 1984, Public Law 98-369, Section 612(a); [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 581, §7 (AMD).]
- T. Approve or disapprove, in accordance with rules adopted under the Maine Administrative Procedure Act, Title 5, chapter 375, a project that is multi-family or single-family residential property, when authorized or required by Title 10, chapter 110, subchapter IV; [PL 1991, c. 528, Pt. E, §35 (AMD); PL 1991, c. 528, Pt. RRR (AFF); PL 1991, c. 591, Pt. E, §35 (AMD).]
- U. Consult with the Statewide Homeless Council, established pursuant to Title 30-A, section 5046, with respect to the implementation of housing programs to make the best use of resources and make the greatest impact on the affordable housing crisis; [PL 2005, c. 380, Pt. B, §3 (AMD).]
- V. Administer energy conservation programs; [PL 1991, c. 9, Pt. I, §7 (NEW); PL 1991, c. 9, Pt. I, §8 (AFF).]
- W. Pursuant to the purpose of the Act to provide housing assistance to persons of low income and in accordance with rules adopted under the Maine Administrative Procedure Act, operate programs to provide energy conservation and fuel assistance on behalf of persons of low income in connection with single-family or multi-unit residential housing and accept, obtain, distribute and

administer federal and state funds, including block grants, for energy conservation and fuel assistance for the purpose of operating those programs; [PL 2017, c. 234, §14 (AMD).]

X. Advise the Governor and other officials of State Government on matters relating to energy conservation; [PL 2005, c. 261, §1 (AMD).]

Y. [PL 2017, c. 234, §15 (RP).]

Z. Condition approval of funding of a housing project upon an applicant's compliance with municipal health, safety and sanitation standards. The Maine State Housing Authority may condition approval of funding for a housing project upon a municipality's representation that the applicant, an affiliate of the applicant or any owner controlled by the applicant has no record of a material municipal code violation of health, safety or sanitation standards; [PL 2007, c. 326, §1 (AMD).]

AA. Certify transfers of multifamily affordable housing property that qualify for the deduction under, Title 36, section 5122, subsection 2, paragraph Z or Title 36, section 5200-A, subsection 2, paragraph Q. The affordability restrictions that apply under this paragraph must be contained in a declaration signed by the transferee and recorded in the appropriate registry of deeds at the time of the sale or transfer.

(1) For the purposes of this paragraph, "multifamily affordable housing property" means a decent, safe and sanitary dwelling, apartment building or other living accommodation that includes at least 6 units, that meets at least one of the following affordability restrictions and for which those affordability restrictions, as applicable, expire in 10 years or less from the date of the sale or transfer of the property:

(a) At least 20% of the units have restricted rents affordable to households earning no more than 80% of the area median income as determined by the United States Department of Housing and Urban Development;

(b) The property is assisted by the United States Department of Housing and Urban Development, the United States Department of Agriculture or the Maine State Housing Authority; or

(c) The property qualifies for low-income housing credits under the United States Internal Revenue Code of 1986, Section 42.

(2) For the purposes of this paragraph, property does not qualify as multifamily affordable housing property unless:

(a) The transferee agrees to maintain the property as multifamily affordable housing property for an additional 30 years from the scheduled expiration;

(b) If the existing federal, state or other assistance is not available to maintain the property as multifamily affordable housing property, the transferee agrees to ensure that 1/2 of the units are affordable to persons at 60% of the area median income as determined by the United States Department of Housing and Urban Development for 30 years from the expiration of the then-existing affordability restrictions; or

(c) The transferee agrees to an alternative affordability agreement approved by the Maine State Housing Authority; [PL 2007, c. 645, §1 (AMD).]

BB. Make a loan, or contract with a financial institution to make a loan on behalf of the Maine State Housing Authority, to pay off an existing loan or to pay amounts past due on an existing loan on an owner-occupied single-family residence to assist a homeowner who is in default of the existing loan or in danger of losing the residence through foreclosure. Prior to receiving a loan under this paragraph, a homeowner must receive counseling with a 3rd-party, nonprofit organization approved by the United States Department of Housing and Urban Development, a

housing financing agency of this State or the regulatory agency that has jurisdiction over the creditor; [PL 2009, c. 361, §2 (AMD); PL 2009, c. 361, §37 (AFF).]

CC. Encourage and provide incentives to individuals and entities that conserve energy; support and participate, with resources derived from sources except the conservation program fund under Title 35-A, section 10110, subsection 7, in markets that reward energy conservation and use the proceeds from this participation to support affordable housing programs under its jurisdiction; and create and administer programs that encourage individuals and entities to conserve energy; [PL 2017, c. 234, §16 (AMD).]

DD. Certify affordable housing projects for the purpose of the income tax credit increase under Title 36, section 5219-BB, subsection 3; administer and enforce the affordability requirements set forth in this paragraph; and perform other functions described in this paragraph and necessary to the powers and duties described in this paragraph.

(1) For purposes of this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

(a) "Affordable housing" means a decent, safe and sanitary dwelling, apartment or other living accommodation for a household whose income does not exceed 60% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended.

(b) "Affordable housing project" means a project in which:

- (i) At least 50% of the aggregate square feet of the completed project is housing of which at least 50% of the aggregate square feet of the completed housing creates new affordable housing; or
- (ii) At least 33% of the aggregate square feet of the completed project creates new affordable housing.

(2) An affordable housing project for which the owner of the property received the income tax credit increase under Title 36, section 5219-BB, subsection 3 must remain an affordable housing project for 30 years from the date the affordable housing project is placed in service. If the property does not remain an affordable housing project for 30 years from the date the affordable housing project is placed in service, the owner of the property shall pay to the Maine State Housing Authority for application to the Housing Opportunities for Maine Fund established under section 4853 an amount equal to the income tax credit increase allowed under Title 36, section 5219-BB, subsection 3, plus interest on that amount at the rate of 7% per annum from the date the property is placed in service until the date of payment of all amounts due. The affordability requirements and the repayment obligation in this subparagraph must be set forth in a restrictive covenant executed by the owner of the property and the affordable housing project for the benefit of and enforceable by the Maine State Housing Authority and recorded in the appropriate registry of deeds before the owner of the property claims the income tax credit increase under Title 36, section 5219-BB, subsection 3.

(3) If the repayment obligation in subparagraph (2) is not fully satisfied after written notice is sent by certified mail or registered mail to the owner of the property at the owner's last known address, the Maine State Housing Authority may file a notice of lien in the registry of deeds of the county in which the real property subject to the lien is located. The notice of lien must specify the amount and interest due, the name and last known address of the owner, a description of the property subject to the lien and the Maine State Housing Authority's address and the name and address of its attorney, if any. The Maine State Housing Authority shall send a copy of the notice of lien filed in the registry by certified mail or registered mail to the owner

of the property at the owner's last known address and to any person who has a security interest, mortgage, lien, encumbrance or other interest in the property that is properly recorded in the registry of deeds in which the property is located. The lien arises and becomes perfected at the time the notice is filed in the appropriate registry of deeds in accordance with this subparagraph. The lien constitutes a lien on all property with respect to which the owner receives the income tax credit increase under Title 36, section 5219-BB, subsection 3 and the proceeds of any disposition of the property that occurs after notice to the owner of the repayment obligation. The lien is prior to any mortgage and security interest, lien, restrictive covenant or other encumbrance recorded, filed or otherwise perfected after the notice of lien is filed in the appropriate registry of deeds. The lien may be enforced by a turnover or sale order in accordance with Title 14, section 3131 or any other manner in which a judgment lien may be enforced under the law. The lien must be in the amount of the income tax credit increase allowed under Title 36, section 5219-BB, subsection 3, plus interest on that amount at the rate of 7% per annum from the date the property is placed in service until the date of payment of all amounts due. Upon receipt of payment of all amounts due under the lien, the Maine State Housing Authority shall execute a discharge lien for filing in the registry or offices in which the notice of lien was filed.

(4) Annually by every August 1st until and including August 1, 2025, the Maine State Housing Authority shall review the report issued pursuant to Title 27, section 511, subsection 5, paragraph A to determine the percentage of the total aggregate square feet of completed projects that constitutes new affordable housing, rehabilitated and developed using:

- (a) Either of the income tax credits under Title 36, section 5219-BB, subsection 2; and
- (b) The income tax credit increase under Title 36, section 5219-BB, subsection 3.

If the total aggregate square feet of new affordable housing does not equal or exceed 30% of the total aggregate square feet of rehabilitated and developed completed projects eligible for a credit under Title 36, section 5219-BB, the Maine State Housing Authority and Maine Historic Preservation Commission shall notify the State Tax Assessor of this fact; [PL 2019, c. 659, Pt. J, §1 (AMD).]

EE. Refinance a single-family mortgage loan held by the Maine State Housing Authority for a homeowner whose income at the time of refinancing is no greater than the income limits for qualified first-time homebuyers established under 26 United States Code, Section 143, or an existing loan on any owner-occupied single-family residence for purposes of lowering mortgage payments or making home improvements for persons of low income; [PL 2019, c. 555, §1 (AMD).]

FF. Provide grants to eligible homeowners who are served by private well water that shows evidence of high levels of arsenic contamination. For purposes of this paragraph, "homeowner" includes an individual who occupies a single-family dwelling that is located on land that is owned by a member of that individual's immediate family and "immediate family" means a spouse, parent, child, sibling, stepchild, stepparent and grandparent; [PL 2021, c. 322, §1 (AMD).]

GG. In accordance with the credit for affordable housing established in Title 36, section 5219-WW and in accordance with rules adopted under the Maine Administrative Procedure Act:

- (1) Allocate the credit;
- (2) Administer and enforce the requirements of the credit; and
- (3) Perform other functions and duties necessary for the proper administration of the credit, including providing any necessary certifications and notices to taxpayers and to the Department of Administrative and Financial Services, Bureau of Revenue Services containing information

required by the State Tax Assessor necessary for determining eligibility and the amount of the credit for each taxable year; and

Rules adopted under this paragraph are routine technical rules. [PL 2021, c. 322, §2 (AMD).]

HH. Provide the joint standing committee of the Legislature having jurisdiction over housing matters copies of any reports required to be submitted to the United States Department of the Treasury or the Governor regarding the administration of the emergency rental assistance programs established by Section 501 of Division N of the federal Consolidated Appropriations Act, 2021 and Section 3201(a) of the federal American Rescue Plan Act of 2021. Copies of any reports required to be submitted to the United States Department of the Treasury or the Governor must be submitted to the joint standing committee of the Legislature having jurisdiction over housing matters no later than 7 days after the reports are submitted to the United States Department of the Treasury or the Governor. If no such reports are required to be submitted to the United States Department of the Treasury or the Governor, the Maine State Housing Authority shall submit, beginning January 15, 2022 and annually thereafter, to the joint standing committee of the Legislature having jurisdiction over housing matters a report on any rental assistance distributed by the Maine State Housing Authority. [PL 2021, c. 322, §3 (NEW).]

[PL 2021, c. 322, §§1-3 (AMD).]

2. Restrictions. Notwithstanding any other provision of this chapter, the Maine State Housing Authority may not provide funds for, finance, purchase the mortgage on or otherwise assist in the construction or management of:

A. Any housing owned, sponsored or assisted by an institution of higher education in the State; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Any housing, the mortgage on which is insured by any federal or state program of mortgage insurance, the primary purpose of which is to assist student housing; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any nursing home or related institution licensed or subject to license by the Department of Health and Human Services under Title 22, section 1817, except intermediate care facilities for persons with intellectual disabilities and persons with related conditions or the construction, substantial rehabilitation or improvement of homeless shelter facilities that may be related to an institution licensed or subject to license by the Department of Health and Human Services under Title 22, section 1817. [PL 2011, c. 542, Pt. A, §55 (AMD).]

[PL 2011, c. 542, Pt. A, §55 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 48, §§2,31 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 581, §§7,8 (AMD). PL 1991, c. 9, §17 (AMD). PL 1991, c. 9, §18 (AFF). PL 1991, c. 511, §B1 (AMD). PL 1991, c. 528, §§E35,36 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 591, §§E35,36 (AMD). PL 1991, c. 610, §2 (AMD). PL 1991, c. 622, §J20 (AMD). PL 1991, c. 622, §J25 (AFF). PL 1991, c. 780, §TT1 (AMD). PL 1993, c. 175, §5 (AMD). PL 1993, c. 359, §B2 (AMD). PL 2003, c. 689, §B6 (REV). PL 2003, c. 704, §§4-6 (AMD). PL 2005, c. 261, §§1-3 (AMD). PL 2005, c. 380, §B3 (AMD). PL 2005, c. 644, §§1-3 (AMD). PL 2007, c. 240, Pt. RRRR, §4 (AMD). PL 2007, c. 326, §§1-3 (AMD). PL 2007, c. 466, Pt. A, §50 (AMD). PL 2007, c. 562, §5 (AMD). PL 2007, c. 645, §§1-3 (AMD). RR 2009, c. 2, §85 (COR). PL 2009, c. 361, §§2-4 (AMD). PL 2009, c. 361, §37 (AFF). PL 2011, c. 453, §2 (AMD). PL 2011, c. 542, Pt. A, §55 (AMD). PL 2011, c. 679, §29 (AMD). RR 2017, c. 1, §24 (COR). PL 2017, c. 234, §§10-18 (AMD). PL 2017, c.

288, Pt. B, §4 (AMD). PL 2019, c. 555, §§1-3 (AMD). PL 2019, c. 659, Pt. J, §1 (AMD). PL 2021, c. 322, §§1-3 (AMD).

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