

2014 -- S 2989

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- MICRO ZONE ECONOMIC
REVITALIZATION ACT

Introduced By: Senators Metts, Satchell, Pearson, Cote, and Crowley

Date Introduced: May 07, 2014

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 64.20

4 MICRO ZONE ECONOMIC REVITALIZATION ACT

5 **42-64.20-1. Short title.** – This chapter shall be known and may be cited as the "Micro
6 Zone Economic Revitalization Act."

7 **42-64.20-2. Legislative findings.** – The general assembly finds and declares:

8 (1) That there are certain distressed areas in this state which are characterized by
9 substantial and persistent levels of unemployment; blighted areas; obsolete, dilapidated, and
10 abandoned industrial and commercial structures; and, as a consequence, continually shrinking tax
11 bases which strain the resources of the communities in which such distressed areas are located;

12 (2) That the numerous programs undertaken by the federal government and the state
13 during the past two (2) decades to stop the deterioration and stimulate economic activity in these
14 distressed areas have, in large part, failed; and

15 (3) That it is the public policy of this state to undertake an experimental program in
16 distressed areas to stimulate economic revitalization, promote employment opportunities,
17 encourage business development and expansion through the redevelopment of obsolete,
18 dilapidated, and abandoned industrial and commercial structures.

1 **42-64.20-3. Definitions. – As used in this chapter:**

2 (1) "Abandoned structure" means a building that has been forsaken or deserted in whole,
3 or in part, for at least two (2) years.

4 (2) "Building owner" means an individual, partnership, corporation, limited liability
5 company or other entity which is listed in the appropriate municipal records of land evidence as
6 the owner of a building, and may include the owner of a leasehold interest with a minimum term
7 of fifty (50) years, with respect to which a memorandum of lease has been recorded in the land
8 evidence records.

9 (3) "Certifiable building" means a building:

10 (i) That is either an obsolete structure, dilapidated structure or abandoned structure as
11 defined in this chapter;

12 (ii) For which no less than forty percent (40%) of the gross square footage shall be used
13 for manufacturing or other commercial purposes that are not related to or ancillary to any
14 residential use of the building;

15 (iii) The use of which conforms to the comprehensive plan and local land use
16 management ordinances of the municipality in which the building is located;

17 (iv) That is proposed for substantial rehabilitation;

18 (v) That has been at a minimum fifty percent (50%) vacant for a minimum of twenty-four
19 (24) months at the time of submission by a municipality to the commerce corporation; and

20 (vi) That is located within a micro zone.

21 (4) "Certified building" means a building with respect to which the commerce
22 corporation has issued a written notice of designation as a certified building pursuant to the
23 provisions of § 42-64.20-5.

24 (5) "Certified building owner" means an individual, partnership, corporation, limited
25 liability company or other entity which is listed in the appropriate municipal records of land
26 evidence as the owner of a certified building, and may include one or more successors in title to
27 the owner of the building at the time the building received written notice of designation as a
28 certified building pursuant to § 42-64.20-5. A certified building owner may include the owner of
29 a leasehold interest with a minimum term of fifty (50) years, with respect to which a
30 memorandum of lease has been recorded in the land evidence records.

31 (6) "Commerce corporation" shall mean the Rhode Island commerce corporation created
32 pursuant to § 42-64-4.

33 (7) "Dilapidated structure" means a building that has fallen into partial ruin or decay from
34 age, wear or neglect.

1 (8) "Division of taxation" means the division of taxation of the department of revenue for
2 the state.

3 (9) "Eligible business" means any for-profit business corporation, sole proprietorship,
4 partnership, or limited partnership or limited liability company:

5 (i) That is not yet operating or located within the state at the time it submits its initial
6 application for certification to the commerce corporation under § 42-64.20-8;

7 (ii) That is not substantially similar in operation and in ownership to a business entity
8 located within the state that ceased operations within the prior three (3) years or reduced
9 employment within the prior year;

10 (iii) That has not caused individuals to transfer from existing employment with a related
11 person located within the state to similar employment with the business;

12 (iv) That is not comprised in whole or in part of the tangible or intangible assets of a
13 business entity located within the state that was operating within the prior three (3) years;

14 (v) That is located in a certified building after the building has undergone substantial
15 rehabilitation;

16 (vi) That is engaged principally in manufacturing or other commercial enterprise
17 designated by regulation of the commerce corporation as eligible for the benefits of this statute
18 other than the following:

19 (A) Retail trade as defined in NAICS codes 44 and 45;

20 (B) Wholesale trade as defined in NAICS code 42;

21 (C) Accommodations and food services as defined in NAICS code 42;

22 (D) Real estate rental and leasing as defined in NAICS code 531110 through 531390;

23 (E) Law firms as defined in NAICS codes 541110 through 541199;

24 (F) Medical or dental practices as defined in NAICS codes 621111;

25 (G) Businesses with less than one hundred (100) employees, providing business
26 administrative or support services as defined in NAICS code 41;

27 (H) Businesses providing utilities as defined in NAICS code 22;

28 (I) Energy production and distribution companies as defined in NAICS code 21;

29 (J) Accounting firms as defined in NAICS codes 541211 through 541219;

30 (K) Credit intermediation and related activities as defined in NAICS code 522110
31 through 522390; and

32 (L) Businesses providing personal services as defined in NAICS code 81.

33 (vii) That obtains certificates of good standing from the division of taxation, the
34 corporations division of the Rhode Island secretary of state and a municipal lien certificate

1 indicating that all local taxes are current at the time of certification; and

2 (viii) That provides the commerce corporation with an affidavit stating under oath that

3 the entity seeking certification as a qualified business has not within the preceding twelve (12)

4 months from the date of application for certification changed its legal status for the purpose of

5 gaining favorable treatment under the provisions of this chapter.

6 (10) "Micro zone" means an area of land that is located in and designated by a micro zone

7 community as a micro zone subject to the benefits of this chapter.

8 (11) "Micro zone community" means a municipality that meets the criteria for eligibility

9 in the distressed communities relief fund as set forth in § 45-13-12, at any time during the

10 applicability of this chapter without regard to whether the community subsequently does not meet

11 such criteria.

12 (12) "Municipality" means any city or town within the state, whether now existing or

13 hereafter created.

14 (13) "NAICS code" means the North American Industrial Classification System code of

15 2012.

16 (14) "Obsolete structure" means a building that is outmoded or out of date with respect to

17 the building's construction, design or use.

18 (15) "Rehabilitation and reconstruction costs" means and includes only those amounts

19 incurred and paid by a certified building owner, after issuance of the notice of designation of the

20 building, solely and exclusively for the rehabilitation of the certified building and which are

21 incurred and paid by the certified building owner to acquire tangible personal property and

22 structural components of the certified building which:

23 (i) Are depreciated pursuant to 26 U.S.C. 167;

24 (ii) Have a useful life of three (3) years or more as evidenced by the tax depreciation

25 method taken and shown on the federal tax return of the certified building owner;

26 (iii) Are acquired by purchase as defined in 26 U.S.C. 179(d). Rehabilitation and

27 reconstruction costs do not include amounts incurred or paid with respect to tangible personal

28 property and structural components of the certified building which the certified building owner

29 leases from any other person or corporation. For the purposes of the preceding sentence, any

30 contract or agreement to lease or rent or for a license to use the property shall be considered a

31 lease unless the contract or agreement is treated for the federal income tax purposes of the

32 certified building owner as an installment purchase rather than a lease; and

33 (iv) Are certified to the commerce corporation as meeting the foregoing criteria by a

34 Rhode Island licensed certified public accountant.

1 (16) "Related person" means a "related person" pursuant to 465(b)(3)(c) of the internal
2 revenue code.

3 (17) "Substantial rehabilitation" means rehabilitation or reconstruction costs of a certified
4 building in a dollar amount that equals or exceeds fifty percent (50%) of the market value of the
5 certified building prior to rehabilitation or reconstruction, as said prior market value is determined
6 by a Rhode Island licensed and certified appraiser who is independent of the certified building
7 owner or owners and their affiliated corporations, and/or any tenants of the certified building and
8 their affiliated corporations and who has been approved by the commerce corporation to issue an
9 appraisal under this chapter in respect to a particular project.

10 **42-64.20-4. Designation of micro zones.** – (a) The legislative body of a micro zone
11 community may designate by ordinance one or more areas within the community as a micro zone.
12 Each ordinance shall include a description of the boundaries of the area or areas designated as a
13 micro zone. Before passing an ordinance, the legislative body, or the committee thereof to which
14 the proposed ordinance has been referred, shall give notice of the date, time, place, and purpose
15 of a public hearing or hearings with reference to the ordinance. The notice shall be published not
16 less than once a week for three (3) successive weeks prior to the hearing in a newspaper of
17 general circulation published in the community, or if no newspaper is published in the
18 community, then in a newspaper of general circulation in the community. At the public hearing
19 all interested persons or agencies shall have an opportunity to be heard and to submit
20 communications in writing.

21 (b) Any person, group, association, or corporation may, in writing, petition the legislative
22 body to designate one or more areas within the community as a micro zone, and may submit, with
23 their petition, plans, showing the proposed redevelopment of those areas or any part or parts of
24 the areas.

25 **42-64.20-5. Building certification process.** -- (a) Subsequent to the creation of a micro
26 zone, any building within such zone shall be eligible for consideration by the commerce
27 corporation as a certifiable building, provided that the micro zone community has:

28 (1) Promulgated local regulations and ordinances to expedite the building permit review
29 and approval process required in the municipality for the rehabilitation of certified buildings;

30 (2) Promulgated local regulations and ordinances waiving all building permit fees of the
31 municipality for the rehabilitation of certified buildings;

32 (3) Entered into a tax stabilization agreement with the building owner applicable to the
33 proposed project providing for, at a minimum, stabilization of real property taxes for a period of
34 not less than ten (10) years and an exemption for any eligible business occupying a certified

1 building from payment of personal property taxes for a ten (10) year period commencing from the
2 substantial completion of a certified building or for any project completed in phases, for a ten
3 (10) year period from substantial completion of each phase of a certified building; and

4 (4) Provided notice to the commerce corporation that the municipality has satisfied the
5 requirements of this chapter and designated the building(s) for consideration by the corporation.

6 (b) Upon receipt of notice by the commerce corporation from a micro zone community
7 that the conditions of § 42-64.20-4(a) have been satisfied, the commerce corporation shall accept
8 the application from any building owner(s) designated by the community for determination of a
9 project as a certified building.

10 (c) Upon receipt of a complete application from a building owner designated by a
11 community as provided in this section, the commerce corporation shall undertake consideration
12 of such application and if the project meets the criteria of this chapter and such rules or
13 regulations promulgated by the commerce corporation in accordance with § 42-64.20-19, the
14 corporation, acting by and through its board of directors, shall issue a notice of designation
15 qualifying the project as a certified building, and the corporation shall enter into an agreement
16 with the building owner to ensure compliance with the requirements of this chapter and related
17 rules and regulations promulgated in relation to this chapter. The commerce corporation may
18 require such terms and conditions in an agreement with a building owner as it deems advisable in
19 its sole discretion, provided that the agreement shall require that a building owner obtain an
20 independent appraisal in order to comply with the requirements of § 42-64.20-6. The commerce
21 corporation may also impose necessary fees and charges as part of any agreement with a building
22 owner to aid in the administration of the provisions of this chapter.

23 (d) Notwithstanding anything to the contrary contained in this chapter, the certified
24 buildings within any micro zone community shall be limited in accordance with the following:

25 (1) In any municipality with a population less than one hundred twenty five thousand
26 (125,000) according to the most recent federal census, the total combined land area of all micro
27 zones shall not exceed twenty (20) acres and the aggregate square footage of all certified
28 buildings within a municipality shall not exceed five hundred thousand (500,000) gross square
29 feet.

30 (2) In any municipality with a population equal to or greater than one hundred twenty
31 five thousand (125,000) according to the most recent federal census, the total combined land area
32 of all micro zones shall not exceed forty (40) acres and the aggregate square footage of all
33 certified buildings within a municipality shall not exceed one million (1,000,000) gross square
34 feet.

1 **42-64.20-6. Certified building rehabilitation.** -- (a) A certified building shall be treated
2 as having been substantially rehabilitated only if the reconstruction and rehabilitation
3 expenditures incurred during the twenty-four (24) month period selected by the certified building
4 owner and ending with or within the taxable year in which the rehabilitated certified building is
5 first placed in service by the certified building owner meet the definition of "substantial
6 rehabilitation" set forth in § 42-64.20-3(17). For purposes of determining whether the
7 requirements of § 42-64.20-3(17) have been met, the market value of the certified building shall
8 be determined at the beginning of the first (1st) day of such twenty-four (24) month period. The
9 certified building owner shall submit to the commerce corporation such information as the
10 corporation may require, evidencing to its satisfaction the substantial rehabilitation, in accordance
11 with the provisions of this chapter.

12 (b) Special rule for phased rehabilitation. In the case of any rehabilitation which may
13 reasonably be expected to be completed in phases set forth in architectural plans and
14 specifications completed before the rehabilitation begins, the commerce corporation may
15 specifically indicate in its notice of designation and agreement with the building owner that the
16 project is approved to be completed in phases and in such event, subsection (a) of this section
17 shall be applied by substituting "sixty (60) month period" for "twenty-four (24) month period."

18 **42-64.20-7. Impact analysis.** -- (a) The commerce corporation shall not designate any
19 building as a certified building under this chapter until it has first prepared and publicly released
20 an analysis of the impact the proposed investment will or may have on the state. The analysis
21 shall be supported by appropriate data and documentation and shall consider, but not be limited
22 to, the following factors:

- 23 (1) The impact on the industry or industries in which the applicant will be involved;
- 24 (2) State fiscal matters, including the state budget (revenues and expenses);
- 25 (3) The financial exposure of the taxpayers of the state under the plans for the proposed
26 investment and negative foreseeable contingencies that may arise therefrom;
- 27 (4) The approximate number of full-time, part-time, temporary, seasonal and/or
28 permanent jobs projected to be created, construction and non-construction;
- 29 (5) Identification of geographic sources of the staffing for identified jobs;
- 30 (6) The projected duration of the identified construction jobs;
- 31 (7) The approximate wage rates for each category of the identified jobs;
- 32 (8) The types of fringe benefits to be provided with the identified jobs, including
33 healthcare insurance and any retirement benefits;
- 34 (9) The projected fiscal impact on increased personal income taxes to the state of Rhode

1 Island; and

2 (10) The description of any plan or process intended to stimulate hiring from the host
3 community, training of employees or potential employees, and outreach to minority job
4 applicants and minority businesses.

5 (b) Upon its preparation and release of the analysis required by subsection (a) of this
6 section, the commerce corporation shall provide copies of that analysis to the chairpersons of the
7 house and senate finance committees, the house and senate fiscal advisors, the department of
8 labor and training and the division of taxation. Any such analysis shall be available to the public
9 for inspection by any person and shall be published by the tax administrator on the tax division
10 website.

11 **42-64.20-8. Certification of an eligible business. --** (a) Upon application from a
12 business, the commerce corporation shall make a determination as to whether a business meets
13 the criteria set forth in § 42-64.20-3(9) and upon determination that such criteria have been
14 satisfied, the commerce corporation shall issue a certification designating the applicant as an
15 eligible business under this chapter and may require the applicant, upon approval, to enter into an
16 agreement with the commerce corporation to ensure compliance with the provisions of this
17 chapter. The commerce corporation may require such terms and conditions in an agreement with
18 an eligible business as it deems advisable in its sole discretion. The commerce corporation may
19 also impose necessary fees and charges as part of any agreement with an eligible business to aid
20 in the administration of the provisions of this chapter.

21 (b) Annually, an eligible business shall submit a renewal application to the commerce
22 corporation for the purposes of allowing the corporation to confirm the continuing eligibility of
23 such business for the benefits of this chapter.

24 (c) If a business loses its eligibility for the benefits of this chapter either by reason of its
25 failure to meet the criteria set forth in this chapter or the failure to submit a renewal application,
26 the commerce corporation shall provide notice to the taxing authority of the municipality in
27 which such business is located of the loss of designation as an eligible business.

28 **42-64.20-9. Incentives for certified building owner. --** (a) A certified building owner
29 shall be exempt from state sales tax of any kind on any personal property, including fixtures,
30 furnishings or equipment, which is acquired and used in the construction and development of the
31 owner's certified building.

32 (1) The total sales tax exemption benefit to a certified building owner under this chapter
33 shall be implemented through a reimbursement process as determined by the division of taxation
34 rather than an up-front purchase exemption; and

1 (2) The sales tax benefits shall only apply to materials used in the construction,
2 reconstruction or rehabilitation of the certified building and to the acquisition of furniture,
3 fixtures and equipment, except automobiles, trucks or other motor vehicles, or materials that
4 otherwise are depreciable and have a useful life of one year or more, for the project for a period
5 not to exceed six (6) months after receipt of a certificate of occupancy for any given phase of the
6 project for which sales tax benefits are utilized.

7 (b) All fees for any permit required by any state statute, rule, regulation or otherwise by
8 any department, agency or instrumentality of the state in relation to the substantial rehabilitation
9 of a certified building ordinarily due from a building owner are hereby waived.

10 (c) A certified building owner shall not be eligible for historic preservation tax credits
11 available under chapter 33.6 of title 44.

12 **42-64.20-10. Incentives for an eligible business. --** (a) An eligible business shall be
13 exempt from state sales tax of any kind on any personal property, including fixtures, furnishings
14 or equipment, which is acquired and used in the operation of the eligible business located in a
15 certified building that has been substantially rehabilitated.

16 (1) The total sales tax exemption benefit to an eligible business under this chapter shall
17 be implemented through a reimbursement process as determined by the division of taxation rather
18 than an up-front purchase exemption; and

19 (2) The sales tax benefits shall only apply to materials used in the outfitting of the rented
20 space occupied by the eligible business in the certified building and to the acquisition of furniture,
21 fixtures and equipment, except automobiles, trucks or other motor vehicles, or materials that
22 otherwise are depreciable and have a useful life of one year or more, for a period not to exceed
23 six (6) months after the date upon which the eligible business first occupies the rented space in
24 the certified building; provided, that an expansion of business operations by an eligible business
25 within a certified building shall entitle the eligible business to the benefit of this provision for a
26 period not to exceed six (6) months from the date upon which the eligible business first occupies
27 additional rented space in the certified building.

28 (b) The income derived by an owner from an eligible business operating within a certified
29 building that has been substantially rehabilitated shall be exempt from taxation under title 44 for a
30 period not to exceed ten (10) years commencing as of January 1 of the year in which the eligible
31 business receives a certification under § 42-64.20-8; provided, however, that the exemption
32 provided hereunder shall expire and no longer be available after December 31, 2029.

33 **42-64.20-11. Interest income. --** (a) The interest income derived by any person from any
34 loan extended to a certified building owner for the acquisition or reconstruction of a certified

1 building shall be exempt from taxation under title 44 of the general laws until the earlier of
2 January 1, 2030 or ten (10) years from the date upon which such loan was first extended to the
3 certified building owner.

4 (b) The interest income derived by any person from any loan extended to an eligible
5 business operating solely within a certified building that has been substantially rehabilitated shall
6 be exempt from taxation under title 44 of the general laws until the earlier of January 1, 2030 or
7 ten (10) years from the date upon which such loan was first extended to the eligible business.

8 **42-64.20-12. Exemption or stabilization of taxes.** -- Notwithstanding the provisions of
9 any municipal charter or any other general, special or local law to the contrary, real property taxes
10 for a certified building and tangible property taxes of the owner(s) of a certified building or any
11 owner(s) of an eligible business for tangible property used in the certified building may be
12 exempted from payment, in whole or in part, notwithstanding the valuation of the property or the
13 rate of tax, by vote of the city or town council to the extent deemed appropriate by the city or
14 town council to carry out the purposes of this chapter. This section shall be construed to provide a
15 complete, additional and alternative authority for the city or town council to grant exemption or
16 stabilization of real or tangible property taxes with respect to certified buildings and the tenants
17 thereof, and the granting of tax exemption or stabilization by the city or town council under the
18 provisions of this section does not require the taking of any other proceedings or the happening of
19 any condition, except for the vote of the city or town council.

20 **42-64.20-13. Expedited permit process.** -- Any building considered for certification
21 under this chapter shall, at the election of the building owner, receive consideration as a project of
22 critical economic concern as that term is defined in § 42-117-3(3) and shall be entitled to the
23 benefits of chapter 117 of title 42.

24 **42-64.20-14. Expiration.** -- This chapter shall terminate and be of no further effect on
25 January 1, 2030, unless the chapter is extended by action of the general assembly.

26 **42-64.20-15. Coordination with existing programs.** -- To the maximum extent possible,
27 the directors of the departments of administration, business regulation, labor and training,
28 environmental management, human services, transportation, and the Rhode Island housing and
29 mortgage finance corporation shall provide special assistance to the zones. This shall include, but
30 not be limited to:

31 (1) Expedited processing;

32 (2) Priority funding;

33 (3) Program set asides; and

34 (4) Provision of technical assistance in furtherance of the public policy enunciated in §

1 [42-64.20-2.](#)

2 **42-64.20-16. Examination of taxpayer's records.** -- [The tax administrator and his or her](#)
3 [agents, for the purpose of ascertaining the correctness of any tax benefit claimed under the](#)
4 [provisions of this chapter, may examine any books, papers, records, or memoranda bearing upon](#)
5 [the matters required to be included in the return, report, or other statement, and may require the](#)
6 [attendance of the person executing the return, report, or other statement, or of any officer or](#)
7 [employee of any taxpayer, or the attendance of any other person, and may examine the person](#)
8 [under oath respecting any matter which the tax administrator or his or her agent deems pertinent](#)
9 [or material in determining the eligibility for the benefit claimed.](#)

10 **42-64.20-17. Penalties.** -- [Any taxpayer or employee, officer or agent of any taxpayer](#)
11 [that willfully fails to comply with the provisions of this chapter or otherwise submits false or](#)
12 [misleading information shall be guilty of a felony and upon conviction shall be fined an amount](#)
13 [not more than three \(3\) times the amount of the tax benefit received by the taxpayer, or](#)
14 [imprisoned not more than one year, or both.](#)

15 **42-64.20-18. Revocation of certification.** -- (a) [The commerce corporation shall have](#)
16 [the power to revoke the certification of any building certified under this chapter or revoke the](#)
17 [eligibility of any business determined as an eligible business under this chapter for failure to](#)
18 [comply with this chapter, the regulations promulgated in accordance with this chapter, or any](#)
19 [agreement entered into by any building owner or eligible business with the commerce](#)
20 [corporation.](#)

21 (b) [In the event the commerce corporation revokes any certification issued under this](#)
22 [chapter, the person or entity whose eligibility has been revoked shall be liable to the state for all](#)
23 [the tax benefits granted hereunder, plus interest, as determined in § 44-1-7, calculated from the](#)
24 [date the person or entity first received the tax benefits.](#)

25 **42-64.20-19. Additional rules and regulations.** -- (a) [The division of taxation shall](#)
26 [promulgate appropriate rules and regulations to ensure the proper administration of the taxation](#)
27 [provisions of this chapter.](#)

28 (b) [The commerce corporation shall promulgate appropriate rules and regulations to](#)
29 [ensure the proper administration of this chapter.](#)

30 **42-64.20-20. Severability.** -- [If the provisions of this chapter or the application of this](#)
31 [chapter to any person or circumstances is held invalid, the invalidity shall not affect other](#)
32 [provisions or applications of the chapter, which can be given effect without the invalid provision](#)
33 [or application, and to this end the provisions of this chapter are declared to be severable.](#)

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- MICRO ZONE ECONOMIC
REVITALIZATION ACT

1 This act would create micro zones in distressed areas to stimulate economic
2 revitalization, employment opportunities, and business development through the redevelopment
3 of obsolete, dilapidated and abandoned industrial and commercial structures.

4 This act would take effect upon passage.

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