



JULY/AUGUST 1990

Richard F. Celeste
Governor, State of Ohio

Nappy M. Hetzler
Director

G. Lynn McCurdy
Superintendent

OHIO APPRAISER BOARD PROPOSES RULES

The Ohio Real Estate Appraiser Board has filed two emergency rules and seven proposed permanent rules to govern the state-certified real estate appraiser certification process.

The two emergency rules were filed on July 13, 1990, and are effective for a period of 90 days. They are summarized below:

1301:11-1-01 Public notice of intention to consider adopting, amending or rescinding rules.

This new rule clarifies the type of public notice which will be given by the Real Estate Appraiser Board when adopting, amending or rescinding a rule or regulation.

1301:11-1-02 Open public meeting.

This new rule outlines the procedure for members of the public and the news media to ascertain the time and place of all regularly scheduled and special meetings of the Real Estate Appraiser Board.

The seven proposed permanent rules were filed on July 19. A public hearing on these rules was held on

August 20 in the Vern Riffe Center in Columbus. The proposed permanent rules as they were originally filed are summarized below:

1301:11-1-03 Fees.

This new rule sets the fees to be assessed upon individuals seeking to become and remain state-certified as real estate appraisers.

1301:11-1-04 Method of payment of monies or fees.

This new rule clarifies that the Superintendent may require the use of a cashier's check, certified check or money order in connection with the payment of any monies payable to the Division of Real Estate.

1301:11-3-01 Definitions.

This new rule defines various appraisal terms used throughout Chapter 4763 of the Ohio Revised Code and its associated rules.

1301:11-3-02 Effective date of certification; cancellation.

This new rule sets the effective date upon which an individual may act as a state-certified real estate appraiser and the require-

ments to regain a certificate that has been voluntarily surrendered or not renewed.

1301:11-3-03 Pre-certification education requirements.

This new rule outlines the educational requirements an applicant must satisfy to become state-certified as a general real estate appraiser and residential real estate appraiser.

1301:11-3-04 Experience requirement.

This new rule clarifies the experience an individual must possess to become a state-certified general real estate appraiser or a state-certified residential real estate appraiser.

1301:11-3-05 Examination requirements.

This new rule outlines the examination specifications for each class of state-certified real estate appraiser applicants.

Applications for state certification are available at the Division of Real Estate.

CONTINUING EDUCATION REQUIREMENTS SPECIFIED

Any licensee whose continuing education is due on or after August 31, 1990, must successfully complete the following courses to meet the continuing education requirements:

- A 3-hour continuing education course devoted exclusively to civil rights and fair housing.

- A 3-hour continuing education "core" course devoted to instruction in recently enacted state and federal legislation affecting the real estate industry.
- 24 hours of approved continuing education electives of the licensee's choice.

DOUGLASS NAMED TO BOARD

Governor Richard F. Celeste has appointed Edward M. Douglass to the Real Estate Appraiser Board. He succeeds William H. MacConnell whose seat expired on June 30. The Board and the Division of Real Estate appreciate his service.



DEFINING THE AGENT'S ROLE IN PROFESSIONAL HOME INSPECTIONS

By Frank Cellura, Esq.

When dealing with a prospective purchaser, what is the appropriate way to handle a question about home professional inspections? An agent should be prepared to tactfully provide some basic honest advice, yet must realize the bounds of his responsibility in this area.

1. The Process—Resolve the Issue Within the Purchaser's Offer

Decisions of having or foregoing a home inspection should be made prior to the issuance of the written purchase offer. No modification to the offer, once accepted by the seller, is permitted without the written consent of both parties.

2. Let the Purchaser Decide

The agent should be able to set forth the multiple options available to the purchaser. A purchaser should know he may choose a whole house inspection, or one or more specialized mechanical inspections. A purchaser may be satisfied with a home warranty protection plan. However, the purchaser should be informed that a home warranty plan is not a replacement for an inspection. The purchaser should also be informed as to whether the licensee receives any compensation for the sale or generation of the sale of a home warranty plan. The ultimate decision as to the course of action to be undertaken must, however, be left to the purchaser.

A licensee should not dissuade the purchaser from having an inspection performed. A licensee should not recommend a particular course of action or the selection of any one particular inspector. Even where well-intended, such advice may subsequently be claimed by the purchaser to have been misguided either actually or subjectively.

3. Encourage an Understanding of the Inspection Contract

A licensee should encourage the review of the inspection contract. The scope of the inspection needs to be understood by the parties to the inspection contract and to the purchase contract. A generalized inspection might not include examination of nonstructural defects such as ureaformaldehyde insulation, radon gas, or asbestos. Further, whether express provision is made regarding responsibility of the

inspector for failure to identify defects is of fundamental importance to the purchaser. An agent's role, however, is to encourage the review of the contract, not to partake in an evaluation or interpretation of the contract on behalf of the party. For this, the agent should recommend the party seek private legal counsel.

Make sure the parties to the purchase contract have come to an agreement as to how the expense of the inspection is to be assessed.

This, of course, should be a prominent part of the inspection contingency itself.

4. The Home Warranty Policy

Home warranty policies are promoted as a modern marketing strategy. A licensee should be careful when recommending such policies.

The purchaser should be encouraged to evaluate the need for such a warranty and the coverage provided by the home warranty policy.

5. The Written Contingencies

Form purchase agreements sometimes contain special pre-printed inspection contingency clauses with tie-in clauses which allow for an apportionment of costs of defect repairs between the parties. When these clauses are not used, cross them off. If they are used, make sure they are filled out completely.

The licensee should safeguard the interests of the party he legally represents. As an owner's agent, if the purchaser has opted for an inspection contingency, you may inquire of the owner whether he wishes to include protective clauses

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TEST RESULTS

Below are the examination statistics for the second half of 1989:

BROKERS

TEST MONTH	TOTAL TESTED	TOTAL PASSED	PASS RATE
January '90	124	109	88%
February '90	39	37	95%
March '90	126	112	89%
April '90	38	34	89%
May '90	21	16	76%
June '90	21	16	76%

SALES

TEST MONTH	TOTAL TESTED	TOTAL PASSED	PASS RATE
January '90	1727	1243	72%
February '90	1833	1243	69%
March '90	730	397	54%
April '90	378	197	52%
May '90	432	256	59%
June '90	227	133	59%

FOREIGN REAL ESTATE

TEST MONTH	TOTAL TESTED	TOTAL PASSED	PASS RATE
January '90	28	20	71%
February '90	32	23	72%
March '90	20	12	60%
April '90	22	17	77%
May '90	17	12	71%
June '90	10	6	60%



DISCIPLINARY ACTIONS

REVOCATIONS

SHARON COOK, sales associate, Pickerington, Ohio, had her sales license revoked for violating Ohio Revised Code Sections 4735.18(A)(5) & (A)(6). This revocation became effective June 21, 1990. For 3 consecutive months, Ms. Cook collected rent from a tenant of a property. However, Ms. Cook did not account to the property owner within a reasonable time for the full amount she had collected. Also, on 2 different occasions, Ms. Cook issued checks from her broker's trust account to the owner of the subject property representing rental proceeds. These checks were not honored by the bank due to insufficient funds being in said account. Ms. Cook failed to assure that there were adequate funds in the trust account to cover the checks.

In a separate case, Sharon Cook issued 2 checks out of her broker's trust account to a property owner representing rental proceeds. However, the checks were not honored by the bank due to insufficient funds being in said account. Ms. Cook failed to assure that there were adequate funds in the trust account to cover the checks.

BARBARA J. NEIL, sales associate, Orlando, Florida, had her sales license revoked for violating Section 4735.18(A)(6) of the Ohio Revised Code. This revocation became effective June 21, 1990. Ms. Neil assisted the sellers of a property in closing on a back-up contract they had entered into concerning the sale of their property. Ms. Neil failed to obtain releases as required pursuant to the terms of an existing outstanding contract on the subject property.

SUSPENSIONS

JUNE I. BUSS, sales associate, Willard, Ohio, had her sales license

suspended for 60 days for violating Section 4735.18(A)(6) of the Ohio Revised Code. This suspension shall commence upon reinstatement of her license. Ms. Buss prepared a purchase agreement on behalf of the buyers of a property. Ms. Buss failed to provide a ceiling on the amount of points the sellers were agreeable to pay, even though there was a preprinted space on the document addressing this matter.

JACK K. COX, broker, Canton, Ohio, had his broker's license suspended for five days for violating Ohio Revised Code Section 4735.18(A)(6) and Ohio Administrative Code Section 1301:5-5-05. However, due to mitigating circumstances, imposition of the suspension was waived by the Commission. Mr. Cox prepared an offer to purchase on behalf of a prospective buyer. He submitted this offer to the seller without providing an agency disclosure form to the buyer or the seller.

LARRY FANKHAUSER, broker, Mansfield, Ohio, had his broker's license suspended for 180 days for violating Ohio Revised Code Section 4735.18(A)(6) as it incorporates Ohio Administrative Code Section 1301:5-1-13. This suspension shall commence upon reinstatement of Mr. Fankhauser's real estate license. The Ohio Division of Real Estate issued a subpoena requiring Mr. Fankhauser to produce certain documents pertaining to an investigation conducted by the Superintendent. However, he failed to obey the subpoena.

WILMA E. JONES, broker, E. Cleveland, Ohio, had her broker's license suspended for 90 days for violating Sections 4735.18(A)(5), (A)(6) and (A)(28) of the Ohio Revised Code. This suspension commenced on August 1, 1990. Ms. Jones collected an earnest money deposit from a prospective buyer made in connection with his offer to purchase a property. Ms. Jones failed to submit these funds for deposit into the brokerage trust account. The prospective buyer did not purchase the subject property and obtained a court order requiring Ms. Jones to return his deposit plus 10% interest and costs. After the court order was obtained, Ms. Jones failed to timely remit any part of the monies due the prospective buyer. This was a final judgment entered against Ms. Jones which arose out of her conduct as a licensed real estate salesperson, and which had not been

satisfied.

JEFFREY PARR, sales associate, Greenfield, Ohio, had his sales license suspended for 90 days for violating Ohio Revised Code Sections 4735.18(A)(6) and 4735.18(A)(4) as it incorporates Ohio Administrative Code Section 1301:5-5-05. This suspension commenced on August 1, 1990. Mr. Parr received earnest money deposits from two prospective buyers of two different properties in connection with their offers to purchase. Mr. Parr received these deposits in his capacity as a real estate salesperson. He failed to remit these monies to his broker for deposit into the brokerage trust account. Mr. Parr also prepared a purchase offer on behalf of a prospective buyer of a property and submitted this offer to the seller without providing an agency disclosure form to the prospective buyer.

MARGARET ROMANO, sales associate, Carrollton, Ohio, had her sales license suspended for 10 days for violating Ohio Revised Code Sections 4735.18(A)(6) and (A)(4) as it incorporates Ohio Administrative Code Section 1301:5-5-05. However, due to mitigating circumstances, imposition of the suspension was waived by the Commission. Ms. Romano prepared a purchase offer on behalf of a prospective buyer of a property. However, she submitted this offer to the seller of the subject property without providing an agency disclosure form to the prospective buyer.

MARK E. RYCHEL, sales associate, Cleveland, Ohio, had his sales license suspended for six months for violating Ohio Revised Code Section 4735.18(A)(6) as it incorporates Ohio Administrative Code Section 1301:5-1-10. This suspension began on March 26, 1990. Mr. Rychel issued a check payable to the Ohio Division of Real Estate for reinstatement of his sales license. Payment of this check was refused by the bank upon which it was drawn.

CAROLE L. THURMAN, sales associate, Akron, Ohio, had her sales license suspended for 180 days for violating Section 4735.18(A) of the Ohio Revised Code. This suspension shall commence upon reinstatement of her license. Ms. Thurman was convicted of trafficking in marijuana and aggravated trafficking in violation of Ohio Revised Code Section 2925.03(A)(1) in the

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STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF REAL ESTATE
77 S. HIGH STREET
COLUMBUS, OHIO 43266-0547
614/466-4100 800/344-4100

The Ohio Real Estate Commission
PAUL J. EVERSON, President
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Dennis Ginty, Newsletter Editor



APPRAISER QUALIFICATIONS BOARD ADOPTS EXAM OUTLINES

The Appraiser Qualifications Board of the Appraisal Foundation has adopted examination content outlines for the residential and general classifications of appraisers.

The outlines provide examination developers and examinees with the scope of knowledge to be covered by the examination and the weighting to be used in each category.

The purpose of these outlines is to provide a basis for the Appraiser Qualifications Board's endorsement of examinations as required by Title XI, Section 1116 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. Although the Appraiser Qualifications Board has provided examination content outlines, the Board has yet to endorse an examination. Ohio will take steps to procure an endorsed exam as soon as one is available. Ohio's exam will consist of state specific questions and the exam content outline adopted by the Appraisal Qualifications Board.

To describe the level of difficulty for certain sections, the Board used the following terms:

Conceptual—Questions designed to determine the candidates' ability to understand and interpret appraisal concepts, principles and analysis procedures. These questions may, in some instances, require calculation skills for the candidate to demonstrate comprehension skills.

I. INFLUENCES ON REAL ESTATE VALUE

- % Weight: 3-4%
Level of Difficulty: Conceptual
A. Physical and Environmental
B. Economic
C. Governmental and Legal
D. Social

II. LEGAL CONSIDERATIONS IN APPRAISAL

- % Weight: 6-8%
Level of Difficulty: Conceptual, Definitions
A. Real estate vs. real property
B. Real property vs. personal property
C. Limitations on real estate ownership
1. Private
a. Deed restrictions
b. Leases
c. Mortgages
d. Easements
e. Liens
f. Encroachments
2. Public
a. Police power
(1) Zoning
(2) Building and fire codes
(3) Environmental regulations
b. Taxation
(1) Property tax
(2) Special assessments
c. Eminent domain
d. Escheat
D. Legal rights and interests
1. Fee simple estate
2. Life estate
3. Leasehold interest
4. Leased fee interest
5. Other legal interests
a. Easement
b. Encroachment
E. Forms of property ownership
1. Individual
2. Tenancies and undivided interests
3. Special ownership forms
a. Condominiums
b. Cooperative
c. Timesharing
F. Legal descriptions
1. Metes and bounds
2. Government survey
3. Lot and block
G. Transfer of title
1. Basic types of deeds
2. Recordation

Definitions—Questions which test the candidates' ability to recall basic concepts, principles, definitions of widely used terms and the appropriate application of these terms in a factual setting.

Analysis/Application—Questions require integrated use of analysis skills with supporting calculations along with comprehension and definitional knowledge. The use of existing, accepted methodology for analyzing appraisal data to calculate the numeric value of generally accepted concepts will be emphasized.

The Board recommended that the examination be in a multiple choice format and that calculators be permitted.

Questions regarding the content outlines should be addressed to:

Appraiser Qualifications Board
The Appraisal Foundation
1029 Vermont Avenue, N.W.
Suite 900
Washington, D.C. 20005

Due to space limitations, the course outline for the **residential** appraiser classification is provided in this issue and the next issue will include the course outline for the **general** appraiser classification.

The residential appraiser classification course outline, including the Level of Difficulty and Percentage Weights, is provided below:

III. TYPES OF VALUE

- % Weight: 3-5%
Level of Difficulty: Conceptual, Definitions
A. Market Value or Value in Exchange
B. Price
C. Cost
D. Investment Value
E. Value in Use
F. Assessed Value
G. Insurable Value

IV. ECONOMIC PRINCIPLES

- % Weight: 7-9%
Level of Difficulty: Conceptual, Definitions
A. Anticipation
B. Balance
C. Change
D. Competition
E. Conformity
F. Contribution
G. Increasing and Decreasing Returns
H. Substitution
I. Supply and Demand
J. Surplus Productivity

V. REAL ESTATE MARKETS AND ANALYSIS

- % Weight: 5-7%
Level of Difficulty: Conceptual
A. Characteristics of real estate markets
1. Availability of information
2. Changes in supply vs. demand
3. Immobility of real estate
4. Segmented markets
5. Regulations
B. Absorption analysis
1. Demographic data
2. Competition
3. Absorption
4. Forecasts
C. Role of money and capital markets
1. Competing investments
2. Sources of capital
D. Real estate financing
1. Mortgage terms and concepts
a. Mortgagor
b. Mortgagee
c. Principal and Interest
2. Mortgage payment plans
a. Fixed rate, level payment

- b. Adjustable rate
 - c. Buydown
 - d. Other
 - 3. Types of mortgages
 - a. Conventional
 - b. Insured
- VI. VALUATION PROCESS
% Weight: 4-6%
Level of Difficulty: Conceptual
- A. Definition of the problem
 - 1. Purpose and use of appraisal
 - 2. Interests to be appraised
 - 3. Type of value to be estimated
 - 4. Date of the value estimate
 - 5. Limiting conditions
 - B. Collection and analysis of data
 - 1. National and regional trends
 - 2. Economic base
 - 3. Local area and neighborhood
 - a. Employment
 - b. Income
 - c. Trends
 - d. Access
 - e. Locational convenience
 - 4. Site and improvements
 - C. Analysis of highest and best use
 - D. Application and limitations of each approach to value
 - 1. Sales comparison
 - 2. Cost
 - 3. Income capitalization
 - E. Reconciliation and final value estimate
 - F. The appraisal report
- VII. PROPERTY DESCRIPTION
% Weight: 2-4%
Level of Difficulty: Conceptual, Definitions
- A. Site Description
 - 1. Utilities
 - 2. Access
 - 3. Topography
 - 4. Size
 - B. Improvement description
 - 1. Size
 - 2. Condition
 - 3. Utility
 - C. Basic construction and design
 - 1. Techniques and materials
 - a. Foundations
 - b. Framing
 - c. Finish (exterior and interior)
 - 2. Functional utility
- VIII. HIGHEST AND BEST USE ANALYSIS
% Weight: 5-7%
Level of Difficulty: Conceptual, Definitions, Analysis/Application
- A. Four tests
 - 1. Physically possible
 - 2. Legally permitted
 - 3. Economically feasible
 - 4. Maximally productive
 - B. Vacant site or as if vacant
 - C. As improved
 - D. Interim use
- IX. APPRAISAL STATISTICAL CONCEPTS
% Weight: 1-3%
Level of Difficulty: Conceptual, Analysis/Application
- A. Mean
 - B. Median
 - C. Mode
 - D. Range
 - E. Standard deviation
- X. SALES COMPARISON APPROACH
% Weight: 21-24%
Level of Difficulty: Conceptual, Definitions, Analysis/Application
- A. Research and selection of comparables
 - 1. Data sources
 - 2. Verification
 - 3. Units of comparison
 - a. Data sources
 - b. Size
 - (1) Square foot
 - (2) Acres
 - (3) Other
 - c. Utility (examples only)
 - (1) Rooms
 - (2) Beds
 - (3) Other
- B. Elements of comparison
- 1. Property rights conveyed
 - a. Leased fee/leasehold
 - b. Easements
 - c. Others
 - 2. Financing terms and cash equivalency
 - a. Loan payment
 - b. Loan balance
 - 3. Conditions of sale
 - a. Arms length sale
 - b. Personality
 - 4. Market conditions at time of contract and closing
 - 5. Location
 - 6. Physical characteristics
- C. Adjustment process
- 1. Sequence of adjustments
 - 2. Dollar adjustments
 - 3. Percentage adjustments
 - 4. Paired sales analysis
- D. Application of sales comparison approach
- XI. SITE VALUE
% Weight: 4-6%
Level of Difficulty: Conceptual, Definitions, Analysis/Application
- A. Sales comparison
 - B. Land residual
 - C. Allocation
 - D. Extraction
 - E. Plottage and Assemblage
- XII. COST APPROACH
% Weight: 8-10%
Level of Difficulty: Conceptual, Definitions, Analysis/Application
- A. Steps in cost approach
 - 1. Reproduction vs. replacement cost
 - a. Comparative unit method
 - b. Unit-in-place method
 - c. Quantity survey method
 - d. Cost service index
 - 2. Accrued depreciation
 - a. Types of depreciation
 - (1) Physical deterioration
 - (a) Curable
 - (b) Incurable
 - (c) Short-lived
 - (d) Long-lived
 - (2) Functional obsolescence
 - (a) Curable
 - (b) Incurable
 - (3) External obsolescence
 - (a) Locational
 - (b) Economic
 - b. Methods of estimating depreciation
 - (1) Age-life method
 - (2) Breakdown method and sequence of deductions
 - (3) Market extraction of depreciation
 - B. Application of the cost approach
- XIII. INCOME APPROACH
% Weight: 7-9%
Level of Difficulty: Conceptual, Definitions, Analysis/Application
- A. Estimation of income and expenses
 - 1. Gross market income
 - 2. Effective gross income
 - a. Vacancy
 - b. Collection loss
 - 3. Operating expenses
 - a. Fixed expenses
 - b. Variable expenses
 - c. Reserve for replacements
 - 4. Net operating income
 - B. Operating expense ratios
 - C. Gross rent multiplier
- XIV. VALUATION OF PARTIAL INTERESTS
% Weight: 1-3%
Level of Difficulty: Conceptual, Definitions
- A. Life estates
 - B. Undivided interest in commonly held property
 - C. Easements
 - D. Timeshares
 - E. Cooperatives
 - F. Leased fee estate
 - G. Leasehold estate
- XV. APPRAISAL STANDARDS AND ETHICS
% Weight: 7-11%
Level of Difficulty: Conceptual, Definitions

Home Inspections

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of his own as a response, such as a provision for a second independent inspection to counter the effects of a negative or burdensome inspection. Enable the seller to opt out of the transaction when repairs to be incurred exceed some fixed ceiling value.

As a purchaser's agent, provide for a cancellation of the agreement in the event of a serious

Disciplinary Actions cont. from page 3

Summit County Court of Common Pleas. Ms. Thurman's conduct in this regard constitutes a conviction of a felony and/or a crime involving moral turpitude.

GERTRUDE VINEY, sales associate, Dayton, Ohio, had her sales license suspended for 60 days for violating Section 4735.18(A)(6) of the Ohio Revised Code. Due to mitigating circumstances, however, 30 days of the suspension were waived by the Commission. Ms. Viney began serving the 30 day balance of the suspension on March 26, 1990. Ms. Viney received an earnest money deposit from a buyer in connection with his agreement to purchase a property. Thereafter, she disbursed some of this money from the trust account to pay for a survey and a title report. Later, Ms. Viney disbursed the remainder of the earnest money to the buyer. She made these disbursements without the knowledge or consent of the seller.

RECOVERY FUND ACTIONS

		PAID ON
Joseph Pasto	\$ 3,630.14	5-2-90
William Manus	32,278.10	5-10-90
Howard Zerkle	7,490.00	7-17-90

defect which the seller will not agree to correct.

In either case, provide a workable timetable by which to determine the effect of the inspection contingency on the overall purchase agreement. The party requesting the inspection should be required to have the results of the inspection within a specific time period. If corrective repairs are to be done, provide a time frame within which these can be completed. If agreeable by the parties to the transaction, allow for the escrowing of sales proceeds to take place so there is not undue delay in closing the sale.

Inspection contingencies should be specific and accurate to reflect the intent of the parties.

6. Disclosures

Keep the following special rules in mind:

- * Always disclose known latent defects (Layman v. Binns)
- * Material information of importance to the purchaser should be disclosed whether obtained from the owner, by the licensee's own survey of the property, by independent source, or from a prior sale or previous failed transaction.
- * If the seller has received written notice of housing or building code violations, the purchaser must be given notice of these violations in writing before execution of the sales contract (Ohio Revised Code Section 5301.253)

UPCOMING TEST DATES

The following are the tentatively scheduled dates for the real estate sales, brokers and foreign real estate sales examinations for the upcoming months:

	SALES COLUMBUS/CLEVELAND		BROKERS COLUMBUS
September	1	13	10
October	3	18	15
November	7	15	19

(Additional exams may be added if warranted)

FOREIGN REAL ESTATE SALES

September	4, 18
October	2, 16, 30
November	13, 27

The foreign real estate sales examination is given only in *Columbus*. Because of the small number of applicants for the foreign real estate dealer examination, these exams are scheduled on an individual basis as the applications are received.



State of Ohio
Department of Commerce
Division of Real Estate
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Columbus, Ohio 43266-0547

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