

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1043

Chapter 409, Laws of 2023

68th Legislature
2023 Regular Session

COMMON INTEREST COMMUNITIES—RECORDS

EFFECTIVE DATE: July 23, 2023

Passed by the House April 14, 2023
Yeas 96 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 11, 2023
Yeas 49 Nays 0

DENNY HECK

President of the Senate

Approved May 11, 2023 9:36 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1043** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 11, 2023

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1043

AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

State of Washington 68th Legislature 2023 Regular Session

By House Housing (originally sponsored by Representatives McEntire, Leavitt, and Walsh)

READ FIRST TIME 01/19/23.

1 AN ACT Relating to association records in common interest
2 communities; and amending RCW 64.32.170, 64.34.372, 64.38.045, and
3 64.90.495.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 64.32.170 and 1965 ex.s. c 11 s 5 are each amended
6 to read as follows:

7 (~~The manager or board of directors, as the case may be, shall~~
8 ~~keep complete and accurate books and records of the receipts and~~
9 ~~expenditures affecting the common areas and facilities, specifying~~
10 ~~and itemizing the maintenance and repair expenses of the common areas~~
11 ~~and facilities and any other expenses incurred. Such books and~~
12 ~~records and the vouchers authorizing payments shall be available for~~
13 ~~examination by the apartment owners, their agents or attorneys, at~~
14 ~~any reasonable time or times.)) (1) An association of apartment
15 owners must retain the following:~~

16 (a) The current budget, detailed records of receipts and
17 expenditures affecting the operation and administration of the
18 association, and other appropriate accounting records within the last
19 seven years;

20 (b) Minutes of all meetings of its apartment owners and board
21 other than executive sessions, a record of all actions taken by the

1 apartment owners or board without a meeting, and a record of all
2 actions taken by a committee in place of the board on behalf of the
3 association;

4 (c) The names of current apartment owners, addresses used by the
5 association to communicate with them, and the number of votes
6 allocated to each apartment;

7 (d) Its original or restated declaration, organizational
8 documents, all amendments to the declaration and organizational
9 documents, and all rules currently in effect;

10 (e) All financial statements and tax returns of the association
11 for the past seven years;

12 (f) A list of the names and addresses of its current board
13 members and officers;

14 (g) Its most recent annual report delivered to the secretary of
15 state, if any;

16 (h) Copies of contracts to which it is or was a party within the
17 last seven years;

18 (i) Materials relied upon by the board or any committee to
19 approve or deny any requests for design or architectural approval for
20 a period of seven years after the decision is made;

21 (j) Materials relied upon by the board or any committee
22 concerning a decision to enforce the governing documents for a period
23 of seven years after the decision is made;

24 (k) Copies of insurance policies under which the association is a
25 named insured;

26 (l) Any current warranties provided to the association;

27 (m) Copies of all notices provided to apartment owners or the
28 association in accordance with this chapter or the governing
29 documents; and

30 (n) Ballots, proxies, absentee ballots, and other records related
31 to voting by apartment owners for one year after the election,
32 action, or vote to which they relate.

33 (2)(a) Subject to subsections (3) through (5) of this section,
34 and except as provided in (b) of this subsection, all records
35 required to be retained by an association of apartment owners must be
36 made available for examination and copying by all apartment owners,
37 holders of mortgages on the apartments, and their respective
38 authorized agents as follows, unless agreed otherwise:

39 (i) During reasonable business hours or at a mutually convenient
40 time and location; and

1 (ii) At the offices of the association or its managing agent.

2 (b) The list of apartment owners required to be retained by an
3 association under subsection (1)(c) of this section is not required
4 to be made available for examination and copying by holders of
5 mortgages on the apartments.

6 (3) Records retained by an association of apartment owners must
7 have the following information redacted or otherwise removed prior to
8 disclosure:

9 (a) Personnel and medical records relating to specific
10 individuals;

11 (b) Contracts, leases, and other commercial transactions to
12 purchase or provide goods or services currently being negotiated;

13 (c) Existing or potential litigation or mediation, arbitration,
14 or administrative proceedings;

15 (d) Existing or potential matters involving federal, state, or
16 local administrative or other formal proceedings before a
17 governmental tribunal for enforcement of the governing documents;

18 (e) Legal advice or communications that are otherwise protected
19 by the attorney-client privilege or the attorney work product
20 doctrine, including communications with the managing agent or other
21 agent of the association;

22 (f) Information the disclosure of which would violate a court
23 order or law;

24 (g) Records of an executive session of the board;

25 (h) Individual apartment files other than those of the requesting
26 apartment owner;

27 (i) Unlisted telephone number or electronic address of any
28 apartment owner or resident;

29 (j) Security access information provided to the association for
30 emergency purposes; or

31 (k) Agreements that for good cause prohibit disclosure to the
32 members.

33 (4) In addition to the requirements in subsection (3) of this
34 section, an association of apartment owners must, prior to disclosure
35 of the list of apartment owners required to be retained by an
36 association under subsection (1)(c) of this section, redact or
37 otherwise remove the address of any apartment owner or resident who
38 is known to the association to be a participant in the address
39 confidentiality program described in chapter 40.24 RCW or any similar
40 program established by law.

1 (5) (a) Except as provided in (b) of this subsection, an
2 association of apartment owners may charge a reasonable fee for
3 producing and providing copies of any records under this section and
4 for supervising the apartment owner's inspection.

5 (b) An apartment owner is entitled to receive a free annual
6 electronic or paper copy of the list retained under subsection (1) (c)
7 of this section from the association.

8 (6) A right to copy records under this section includes the right
9 to receive copies by photocopying or other means, including through
10 an electronic transmission if available upon request by the apartment
11 owner.

12 (7) An association of apartment owners is not obligated to
13 compile or synthesize information.

14 (8) Information provided pursuant to this section may not be used
15 for commercial purposes.

16 (9) An association of apartment owner's managing agent must
17 deliver all of the association's original books and records to the
18 association immediately upon termination of its management
19 relationship with the association, or upon such other demand as is
20 made by the board. An association managing agent may keep copies of
21 the association records at its own expense.

22 (10) All books and records shall be kept in accordance with good
23 accounting procedures and be audited at least once a year by an
24 auditor outside of the organization.

25 (11) This section applies to records in the possession of the
26 association on the effective date of this section, and to records
27 created or maintained after the effective date of this section. An
28 association has no liability under this section for records disposed
29 of prior to the effective date of this section.

30 **Sec. 2.** RCW 64.34.372 and 1992 c 220 s 19 are each amended to
31 read as follows:

32 (1) The association shall keep financial records sufficiently
33 detailed to enable the association to comply with RCW 64.34.425. All
34 financial and other records of the association, including but not
35 limited to checks, bank records, and invoices, are the property of
36 the association(~~(, but shall be made reasonably available for~~
37 ~~examination and copying by the manager of the association, any unit~~
38 ~~owner, or the owner's authorized agents)). At least annually, the
39 association shall prepare, or cause to be prepared, a financial~~

1 statement of the association in accordance with generally accepted
2 accounting principles. The financial statements of condominiums
3 consisting of (~~fifty~~) 50 or more units shall be audited at least
4 annually by a certified public accountant. In the case of a
5 condominium consisting of fewer than (~~fifty~~) 50 units, an annual
6 audit is also required but may be waived annually by unit owners
7 other than the declarant of units to which (~~sixty~~) 60 percent of
8 the votes are allocated, excluding the votes allocated to units owned
9 by the declarant.

10 (2) The funds of an association shall be kept in accounts in the
11 name of the association and shall not be commingled with the funds of
12 any other association, nor with the funds of any manager of the
13 association or any other person responsible for the custody of such
14 funds. Any reserve funds of an association shall be kept in a
15 segregated account and any transaction affecting such funds,
16 including the issuance of checks, shall require the signature of at
17 least two persons who are officers or directors of the association.

18 (3) An association must retain the following:

19 (a) The current budget, detailed records of receipts and
20 expenditures affecting the operation and administration of the
21 association, and other appropriate accounting records within the last
22 seven years;

23 (b) Minutes of all meetings of its unit owners and board other
24 than executive sessions, a record of all actions taken by the unit
25 owners or board without a meeting, and a record of all actions taken
26 by a committee in place of the board on behalf of the association;

27 (c) The names of current unit owners, addresses used by the
28 association to communicate with them, and the number of votes
29 allocated to each unit;

30 (d) Its original or restated declaration, organizational
31 documents, all amendments to the declaration and organizational
32 documents, and all rules currently in effect;

33 (e) All financial statements and tax returns of the association
34 for the past seven years;

35 (f) A list of the names and addresses of its current board
36 members and officers;

37 (g) Its most recent annual report delivered to the secretary of
38 state, if any;

39 (h) Copies of contracts to which it is or was a party within the
40 last seven years;

1 (i) Materials relied upon by the board or any committee to
2 approve or deny any requests for design or architectural approval for
3 a period of seven years after the decision is made;

4 (j) Materials relied upon by the board or any committee
5 concerning a decision to enforce the governing documents for a period
6 of seven years after the decision is made;

7 (k) Copies of insurance policies under which the association is a
8 named insured;

9 (l) Any current warranties provided to the association;

10 (m) Copies of all notices provided to unit owners or the
11 association in accordance with this chapter or the governing
12 documents; and

13 (n) Ballots, proxies, absentee ballots, and other records related
14 to voting by unit owners for one year after the election, action, or
15 vote to which they relate.

16 (4) (a) Subject to subsections (5) through (7) of this section,
17 and except as provided in (b) of this subsection, all records
18 required to be retained by an association must be made available for
19 examination and copying by all unit owners, holders of mortgages on
20 the units, and their respective authorized agents as follows, unless
21 agreed otherwise:

22 (i) During reasonable business hours or at a mutually convenient
23 time and location; and

24 (ii) At the offices of the association or its managing agent.

25 (b) The list of unit owners required to be retained by an
26 association under subsection (3) (c) of this section is not required
27 to be made available for examination and copying by holders of
28 mortgages on the units.

29 (5) Records retained by an association must have the following
30 information redacted or otherwise removed prior to disclosure:

31 (a) Personnel and medical records relating to specific
32 individuals;

33 (b) Contracts, leases, and other commercial transactions to
34 purchase or provide goods or services currently being negotiated;

35 (c) Existing or potential litigation or mediation, arbitration,
36 or administrative proceedings;

37 (d) Existing or potential matters involving federal, state, or
38 local administrative or other formal proceedings before a
39 governmental tribunal for enforcement of the governing documents;

1 (e) Legal advice or communications that are otherwise protected
2 by the attorney-client privilege or the attorney work product
3 doctrine, including communications with the managing agent or other
4 agent of the association;

5 (f) Information the disclosure of which would violate a court
6 order or law;

7 (g) Records of an executive session of the board;

8 (h) Individual unit files other than those of the requesting unit
9 owner;

10 (i) Unlisted telephone number or electronic address of any unit
11 owner or resident;

12 (j) Security access information provided to the association for
13 emergency purposes; or

14 (k) Agreements that for good cause prohibit disclosure to the
15 members.

16 (6) In addition to the requirements in subsection (5) of this
17 section, an association must, prior to disclosure of the list of unit
18 owners required to be retained by an association under subsection
19 (3)(c) of this section, redact or otherwise remove the address of any
20 unit owner or resident who is known to the association to be a
21 participant in the address confidentiality program described in
22 chapter 40.24 RCW or any similar program established by law.

23 (7)(a) Except as provided in (b) of this subsection, an
24 association may charge a reasonable fee for producing and providing
25 copies of any records under this section and for supervising the unit
26 owner's inspection.

27 (b) A unit owner is entitled to receive a free annual electronic
28 or paper copy of the list retained under subsection (3)(c) of this
29 section from the association.

30 (8) A right to copy records under this section includes the right
31 to receive copies by photocopying or other means, including through
32 an electronic transmission if available upon request by the unit
33 owner.

34 (9) An association is not obligated to compile or synthesize
35 information.

36 (10) Information provided pursuant to this section may not be
37 used for commercial purposes.

38 (11) An association's managing agent must deliver all of the
39 association's original books and records to the association
40 immediately upon termination of its management relationship with the

1 association, or upon such other demand as is made by the board. An
2 association managing agent may keep copies of the association records
3 at its own expense.

4 (12) This section applies to records in the possession of the
5 association on the effective date of this section, and to records
6 created or maintained after the effective date of this section. An
7 association has no liability under this section for records disposed
8 of prior to the effective date of this section.

9 **Sec. 3.** RCW 64.38.045 and 1995 c 283 s 9 are each amended to
10 read as follows:

11 (1) The association or its managing agent shall keep financial
12 and other records sufficiently detailed to enable the association to
13 fully declare to each owner the true statement of its financial
14 status. All financial and other records of the association, including
15 but not limited to checks, bank records, and invoices, in whatever
16 form they are kept, are the property of the association. Each
17 association managing agent shall turn over all original books and
18 records to the association immediately upon termination of the
19 management relationship with the association, or upon such other
20 demand as is made by the board of directors. An association managing
21 agent is entitled to keep copies of association records. All records
22 which the managing agent has turned over to the association shall be
23 made reasonably available for the examination and copying by the
24 managing agent.

25 ~~(2) ((All records of the association, including the names and~~
26 ~~addresses of owners and other occupants of the lots, shall be~~
27 ~~available for examination by all owners, holders of mortgages on the~~
28 ~~lots, and their respective authorized agents on reasonable advance~~
29 ~~notice during normal working hours at the offices of the association~~
30 ~~or its managing agent. The association shall not release the unlisted~~
31 ~~telephone number of any owner. The association may impose and collect~~
32 ~~a reasonable charge for copies and any reasonable costs incurred by~~
33 ~~the association in providing access to records.~~

34 ~~(3))~~ At least annually, the association shall prepare, or cause
35 to be prepared, a financial statement of the association. The
36 financial statements of associations with annual assessments of
37 ~~((fifty thousand dollars))~~ \$50,000 or more shall be audited at least
38 annually by an independent certified public accountant, but the audit
39 may be waived if ~~((sixty-seven))~~ 67 percent of the votes cast by

1 owners, in person or by proxy, at a meeting of the association at
2 which a quorum is present, vote each year to waive the audit.

3 ~~((4))~~ (3) The funds of the association shall be kept in
4 accounts in the name of the association and shall not be commingled
5 with the funds of any other association, nor with the funds of any
6 manager of the association or any other person responsible for the
7 custody of such funds.

8 (4) An association must retain the following:

9 (a) The current budget, detailed records of receipts and
10 expenditures affecting the operation and administration of the
11 association, and other appropriate accounting records within the last
12 seven years;

13 (b) Minutes of all meetings of its owners and board other than
14 executive sessions, a record of all actions taken by the owners or
15 board without a meeting, and a record of all actions taken by a
16 committee in place of the board on behalf of the association;

17 (c) The names of current owners, addresses used by the
18 association to communicate with them, and the number of votes
19 allocated to each lot;

20 (d) Its original or restated declaration, organizational
21 documents, all amendments to the declaration and organizational
22 documents, and all rules currently in effect;

23 (e) All financial statements and tax returns of the association
24 for the past seven years;

25 (f) A list of the names and addresses of its current board
26 members and officers;

27 (g) Its most recent annual report delivered to the secretary of
28 state, if any;

29 (h) Copies of contracts to which it is or was a party within the
30 last seven years;

31 (i) Materials relied upon by the board or any committee to
32 approve or deny any requests for design or architectural approval for
33 a period of seven years after the decision is made;

34 (j) Materials relied upon by the board or any committee
35 concerning a decision to enforce the governing documents for a period
36 of seven years after the decision is made;

37 (k) Copies of insurance policies under which the association is a
38 named insured;

39 (l) Any current warranties provided to the association;

1 (m) Copies of all notices provided to owners or the association
2 in accordance with this chapter or the governing documents; and

3 (n) Ballots, proxies, absentee ballots, and other records related
4 to voting by owners for one year after the election, action, or vote
5 to which they relate.

6 (5)(a) Subject to subsections (6) through (8) of this section,
7 and except as provided in (b) of this subsection, all records
8 required to be retained by an association must be made available for
9 examination and copying by all owners, holders of mortgages on the
10 lots, and their respective authorized agents as follows, unless
11 agreed otherwise:

12 (i) During reasonable business hours or at a mutually convenient
13 time and location; and

14 (ii) At the offices of the association or its managing agent.

15 (b) The list of owners required to be retained by an association
16 under subsection (4)(c) of this section is not required to be made
17 available for examination and copying by holders of mortgages on the
18 lots.

19 (6) Records retained by an association must have the following
20 information redacted or otherwise removed prior to disclosure:

21 (a) Personnel and medical records relating to specific
22 individuals;

23 (b) Contracts, leases, and other commercial transactions to
24 purchase or provide goods or services currently being negotiated;

25 (c) Existing or potential litigation or mediation, arbitration,
26 or administrative proceedings;

27 (d) Existing or potential matters involving federal, state, or
28 local administrative or other formal proceedings before a
29 governmental tribunal for enforcement of the governing documents;

30 (e) Legal advice or communications that are otherwise protected
31 by the attorney-client privilege or the attorney work product
32 doctrine, including communications with the managing agent or other
33 agent of the association;

34 (f) Information the disclosure of which would violate a court
35 order or law;

36 (g) Records of an executive session of the board;

37 (h) Individual lot files other than those of the requesting
38 owner;

39 (i) Unlisted telephone number or electronic address of any owner
40 or resident;

1 (j) Security access information provided to the association for
2 emergency purposes; or

3 (k) Agreements that for good cause prohibit disclosure to the
4 members.

5 (7) In addition to the requirements in subsection (6) of this
6 section, an association must, prior to disclosure of the list of
7 owners required to be retained by an association under subsection
8 (4)(c) of this section, redact or otherwise remove the address of any
9 owner or resident who is known to the association to be a participant
10 in the address confidentiality program described in chapter 40.24 RCW
11 or any similar program established by law.

12 (8)(a) Except as provided in (b) of this subsection, an
13 association may charge a reasonable fee for producing and providing
14 copies of any records under this section and for supervising the
15 owner's inspection.

16 (b) An owner is entitled to receive a free annual electronic or
17 paper copy of the list retained under subsection (4)(c) of this
18 section from the association.

19 (9) A right to copy records under this section includes the right
20 to receive copies by photocopying or other means, including through
21 an electronic transmission if available upon request by the owner.

22 (10) An association is not obligated to compile or synthesize
23 information.

24 (11) Information provided pursuant to this section may not be
25 used for commercial purposes.

26 (12) An association's managing agent must deliver all of the
27 association's original books and records to the association
28 immediately upon termination of its management relationship with the
29 association, or upon such other demand as is made by the board. An
30 association managing agent may keep copies of the association records
31 at its own expense.

32 (13) This section applies to records in the possession of the
33 association on the effective date of this section, and to records
34 created or maintained after the effective date of this section. An
35 association has no liability under this section for records disposed
36 of prior to the effective date of this section.

37 **Sec. 4.** RCW 64.90.495 and 2018 c 277 s 320 are each amended to
38 read as follows:

39 (1) An association must retain the following:

- 1 (a) The current budget, detailed records of receipts and
2 expenditures affecting the operation and administration of the
3 association, and other appropriate accounting records within the last
4 seven years;
- 5 (b) Minutes of all meetings of its unit owners and board other
6 than executive sessions, a record of all actions taken by the unit
7 owners or board without a meeting, and a record of all actions taken
8 by a committee in place of the board on behalf of the association;
- 9 (c) The names of current unit owners, addresses used by the
10 association to communicate with them, and the number of votes
11 allocated to each unit;
- 12 (d) Its original or restated declaration, organizational
13 documents, all amendments to the declaration and organizational
14 documents, and all rules currently in effect;
- 15 (e) All financial statements and tax returns of the association
16 for the past seven years;
- 17 (f) A list of the names and addresses of its current board
18 members and officers;
- 19 (g) Its most recent annual report delivered to the secretary of
20 state, if any;
- 21 (h) Financial and other records sufficiently detailed to enable
22 the association to comply with RCW 64.90.640;
- 23 (i) Copies of contracts to which it is or was a party within the
24 last seven years;
- 25 (j) Materials relied upon by the board or any committee to
26 approve or deny any requests for design or architectural approval for
27 a period of seven years after the decision is made;
- 28 (k) Materials relied upon by the board or any committee
29 concerning a decision to enforce the governing documents for a period
30 of seven years after the decision is made;
- 31 (l) Copies of insurance policies under which the association is a
32 named insured;
- 33 (m) Any current warranties provided to the association;
- 34 (n) Copies of all notices provided to unit owners or the
35 association in accordance with this chapter or the governing
36 documents; and
- 37 (o) Ballots, proxies, absentee ballots, and other records related
38 to voting by unit owners for one year after the election, action, or
39 vote to which they relate.

1 (2) (a) Subject to subsections (3) (~~(and (4))~~) through (5) of this
2 section, and except as provided in (b) of this subsection, all
3 records required to be retained by an association must be made
4 available for examination and copying by all unit owners, holders of
5 mortgages on the units, and their respective authorized agents as
6 follows, unless agreed otherwise:

7 (~~(a)~~) (i) During reasonable business hours or at a mutually
8 convenient time and location; and

9 (~~(b)~~) (ii) At the offices of the association or its managing
10 agent.

11 (b) The list of unit owners required to be retained by an
12 association under subsection (1)(c) of this section is not required
13 to be made available for examination and copying by holders of
14 mortgages on the units.

15 (3) Records retained by an association (~~may be withheld from~~
16 ~~inspection and copying to the extent that they concern~~) must have
17 the following information redacted or otherwise removed prior to
18 disclosure:

19 (a) Personnel and medical records relating to specific
20 individuals;

21 (b) Contracts, leases, and other commercial transactions to
22 purchase or provide goods or services currently being negotiated;

23 (c) Existing or potential litigation or mediation, arbitration,
24 or administrative proceedings;

25 (d) Existing or potential matters involving federal, state, or
26 local administrative or other formal proceedings before a
27 governmental tribunal for enforcement of the governing documents;

28 (e) Legal advice or communications that are otherwise protected
29 by the attorney-client privilege or the attorney work product
30 doctrine, including communications with the managing agent or other
31 agent of the association;

32 (f) Information the disclosure of which would violate a court
33 order or law;

34 (g) Records of an executive session of the board;

35 (h) Individual unit files other than those of the requesting unit
36 owner;

37 (i) Unlisted telephone number or electronic address of any unit
38 owner or resident;

39 (j) Security access information provided to the association for
40 emergency purposes; or

1 (k) Agreements that for good cause prohibit disclosure to the
2 members.

3 (4) In addition to the requirements in subsection (3) of this
4 section, an association must, prior to disclosure of the list of unit
5 owners required to be retained by an association under subsection
6 (1)(c) of this section, redact or otherwise remove the address of any
7 unit owner or resident who is known to the association to be a
8 participant in the address confidentiality program described in
9 chapter 40.24 RCW or any similar program established by law.

10 (~~(A)~~) (5)(a) Except as provided in (b) of this subsection, an
11 association may charge a reasonable fee for producing and providing
12 copies of any records under this section and for supervising the unit
13 owner's inspection.

14 (b) A unit owner is entitled to receive a free annual electronic
15 or paper copy of the list retained under subsection (1)(c) of this
16 section from the association.

17 (~~(5)~~) (6) A right to copy records under this section includes
18 the right to receive copies by photocopying or other means, including
19 through an electronic transmission if available upon request by the
20 unit owner.

21 (~~(6)~~) (7) An association is not obligated to compile or
22 synthesize information.

23 (~~(7)~~) (8) Information provided pursuant to this section may not
24 be used for commercial purposes.

25 (~~(8)~~) (9) An association's managing agent must deliver all of
26 the association's original books and records to the association
27 immediately upon termination of its management relationship with the
28 association, or upon such other demand as is made by the board. An
29 association managing agent may keep copies of the association records
30 at its own expense.

Passed by the House April 14, 2023.

Passed by the Senate April 11, 2023.

Approved by the Governor May 11, 2023.

Filed in Office of Secretary of State May 11, 2023.

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