AN ACT CONCERNING BROWNFIELD REMEDIATION AND DEVELOPMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-133x of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2014):

(a) For the purposes of this section, "applicant" means the person who submits the environmental condition assessment form to the commissioner pursuant to this section. Except as provided in section 22a-133y, any person may, at any time, submit to the commissioner an environmental condition assessment form for real property and an initial review fee in accordance with subsection (e) of this section. Such applicant shall use a licensed environmental professional to verify the investigation and remediation, unless not later than thirty days after the commissioner's receipt of such form, the commissioner notifies such applicant, in writing, that review and written approval of any remedial action at such property by the commissioner will be required. The commissioner shall not process any such form submitted pursuant to this section unless such form is accompanied by the required initial review fee.

(b) The applicant shall, on or before ninety days after the submission of an environmental condition assessment form, submit a
statement of proposed actions for investigating and remediating the parcel or a release area, as defined in the regulations adopted by the commissioner pursuant to section 22a-133k, and a schedule for implementing such actions. The commissioner may require the applicant to submit to the commissioner copies of technical plans and reports related to investigation and remediation of the parcel or release area. Notwithstanding any other provision of this section, the commissioner may determine that the commissioner's review and written approval of such technical plans and reports is necessary at any time, and in such case the commissioner shall notify the applicant of the need for the commissioner's review and written approval. The commissioner shall require that the certifying party submit to the commissioner all technical plans and reports related to the investigation and remediation of the parcel or release area if the commissioner receives a written request from any person for such information. The applicant shall advise the commissioner of any modifications to the proposed schedule. Upon receipt of an interim verification by a licensed environmental professional, the applicant may submit such interim verification to the commissioner on a form prescribed by the commissioner. Upon receipt of a verification by a licensed environmental professional that the parcel, portion of the parcel or release area has been investigated in accordance with prevailing standards and guidelines and remediated in accordance with the remediation standards, the applicant shall submit such verification to the commissioner on a form prescribed by the commissioner.

(c) If the commissioner notifies the applicant that the commissioner will formally review and approve in writing the investigation and remediation of the parcel, the applicant shall, on or before thirty days of the receipt of such notice, or such later date as may be approved in writing by the commissioner, submit for the commissioner's review and written approval, a proposed schedule for: (1) Investigating and remediating the parcel or release area; and (2) submitting to the commissioner technical plans, technical reports and progress reports.
related to such investigation and remediation. Upon the 
commissioner's approval of such schedule, the applicant shall, in 
accordance with the approved schedule, submit technical plans, 
technical reports and progress reports to the commissioner for the 
commissioner's review and written approval. The applicant shall 
perform all actions identified in the approved technical plans, technical 
reports and progress reports in accordance with the approved 
schedule. The commissioner may approve, in writing, any 
modification proposed in writing by the applicant to such schedule or 
investigation and remediation and may notify the applicant, in 
writing, if the commissioner determines that it is appropriate to 
discontinue formal review and approval of the investigation or 
remediation.

(d) (1) If, in accordance with the provisions of this section, the 
commissioner has approved in writing or, as applicable, a licensed 
environmental professional has verified, that the parcel, portion of the 
parcel or release area has been remediated in accordance with the 
remediation standards, such approval or verification may be used as 
the basis for submitting a Form II pursuant to sections 22a-134 to 
22a-134e, inclusive, provided there has been no additional discharge, 
spillage, uncontrolled loss, seepage or filtration of hazardous waste at 
or on the parcel subsequent to the date of the commissioner's approval 
or verification by a licensed environmental professional.

(2) If, in accordance with the provisions of this section, as 
applicable, a licensed environmental professional has submitted an 
interim verification for the parcel, portion of the parcel or release area, 
such interim verification may be used as the basis for submitting a 
Form IV pursuant to sections 22a-134 to 22a-134e, inclusive.

(e) The fee for submitting an environmental condition assessment 
form to the commissioner pursuant to this section shall be three 
thousand two hundred fifty dollars and shall be paid at the time the 
environmental condition assessment form is submitted. Any fee paid 
pursuant to this section shall be deducted from any fee required by
subsection (m) or (n) of section 22a-134e for the transfer of any parcel for which an environmental condition assessment form has been submitted within three years of such transfer.

(f) Nothing in this section shall be construed to affect or impair the voluntary site remediation process provided for in section 22a-133y.

(g) Prior to commencement of remedial action taken under this section, the applicant shall (1) publish notice of the remediation, in accordance with the schedule submitted pursuant to this section, in a newspaper having a substantial circulation in the area affected by the establishment, (2) notify the director of health of the municipality where the parcel is located of the remediation, and (3) either (A) erect and maintain for at least thirty days in a legible condition a sign not less than six feet by four feet on the parcel, which sign shall be clearly visible from the public highway, and shall include the words "ENVIRONMENTAL CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER INFORMATION CONTACT:" and include a telephone number for an office from which any interested person may obtain additional information about the remediation, or (B) mail notice of the remediation to each owner of record of property which abuts the parcel, at the last-known address of such owner on the last-completed grand list of the municipality where the parcel is located.

Sec. 2. Subsection (c) of section 22a-133y of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2014):

(c) Any final remedial action report submitted to the commissioner for such a property or portion of such a property by a licensed environmental professional shall be deemed approved unless, [within] not later than sixty days [of] after such submittal, the commissioner determines, in his or her sole discretion, that an audit of such remedial action is necessary to assess whether remedial action beyond that which is indicated in such report is necessary for the protection of human health or the environment. Such an audit shall be conducted
[within] not later than six months [of] after such determination. After completing such audit, the commissioner may disapprove the report, provided (1) he or she shall give his or her reasons therefor in writing, and [further provided] (2) such owner may appeal such disapproval to the superior court in accordance with the provisions of section 4-183.

Prior to approving a final remedial action report, the commissioner may enter into a memorandum of understanding with the owner of such property with regard to any further remedial action or monitoring activities on or at such property which the commissioner deems necessary for the protection of human health or the environment.

Sec. 3. Subdivision (1) of section 22a-134 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2014):

(1) "Transfer of establishment" means any transaction or proceeding through which an establishment undergoes a change in ownership, but does not mean: (A) Conveyance or extinguishment of an easement;

(B) Conveyance of an establishment through a foreclosure, as defined in subsection (b) of section 22a-452f, foreclosure of a municipal tax lien or through a tax warrant sale pursuant to section 12-157, an exercise of eminent domain by a municipality or pursuant to section 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or purchase pursuant to a resolution by the legislative body of a municipality authorizing the acquisition through eminent domain for establishments that also meet the definition of a brownfield, as defined in section 32-760, or a subsequent transfer by such municipality that has foreclosed on the property, foreclosed municipal tax liens or that has acquired title to the property through section 12-157, or is within the pilot program established in subsection (c) of section 32-9cc of the general statutes, revision of 1958, revised to January 1, 2013, or the remedial action and redevelopment municipal grant program established in section 32-763, or has acquired such property through the exercise of eminent domain by a municipality or pursuant to
section 8-128, 8-169e or 8-193 or by condemnation pursuant to section
32-224 or a resolution adopted in accordance with this subparagraph,
provided (i) the party acquiring the property from the municipality
did not establish, create or contribute to the contamination at the
establishment and is not affiliated with any person who established,
created or contributed to such contamination or with any person who
is or was an owner or certifying party for the establishment, and (ii) on
or before the date the party acquires the property from the
municipality, such party or municipality enters and subsequently
remains in the voluntary remediation program administered by the
commissioner pursuant to section 22a-133x and remains in compliance
with schedules and approvals issued by the commissioner. For
purposes of this subparagraph, subsequent transfer by a municipality
includes any transfer to, from or between a municipality, municipal
economic development agency or entity created or operating under
chapter 130 or 132, a nonprofit economic development corporation
formed to promote the common good, general welfare and economic
development of a municipality that is funded, either directly or
through in-kind services, in part by a municipality, or a nonstock
corporation or limited liability company controlled or established by a
municipality, municipal economic development agency or entity
created or operating under chapter 130 or 132;

(C) Conveyance of a deed in lieu of foreclosure to a lender, as
defined in and that qualifies for the secured lender exemption
pursuant to subsection (b) of section 22a-452f;

(D) Conveyance of a security interest, as defined in subdivision (7)
of subsection (b) of section 22a-452f;

(E) Termination of a lease and conveyance, assignment or execution
of a lease for a period less than ninety-nine years including
conveyance, assignment or execution of a lease with options or similar
terms that will extend the period of the leasehold to ninety-nine years,
or from the commencement of the leasehold, ninety-nine years,
including conveyance, assignment or execution of a lease with options
or similar terms that will extend the period of the leasehold to ninety-nine years, or from the commencement of the leasehold;

(F) Any change in ownership approved by the Probate Court;

(G) Devolution of title to a surviving joint tenant, or to a trustee, executor or administrator under the terms of a testamentary trust or will, or by intestate succession;

(H) Corporate reorganization not substantially affecting the ownership of the establishment;

(I) The issuance of stock or other securities of an entity which owns or operates an establishment;

(J) The transfer of stock, securities or other ownership interests representing less than forty per cent of the ownership of the entity that owns or operates the establishment;

(K) Any conveyance of an interest in an establishment where the transferor is the sibling, spouse, child, parent, grandparent, child of a sibling or sibling of a parent of the transferee;

(L) Conveyance of an interest in an establishment to a trustee of an inter vivos trust created by the transferor solely for the benefit of one or more siblings, spouses, children, parents, grandchildren, children of a sibling or siblings of a parent of the transferor;

(M) Any conveyance of a portion of a parcel upon which portion no establishment is or has been located and upon which there has not occurred a discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste, provided either the area of such portion is not greater than fifty per cent of the area of such parcel or written notice of such proposed conveyance and an environmental condition assessment form for such parcel is provided to the commissioner sixty days prior to such conveyance;
(N) Conveyance of a service station, as defined in subdivision (5) of this section;

(O) Any conveyance of an establishment which, prior to July 1, 1997, had been developed solely for residential use and such use has not changed;

(P) Any conveyance of an establishment to any entity created or operating under chapter 130 or 132, or to an urban rehabilitation agency, as defined in section 8-292, or to a municipality under section 32-224, or to Connecticut Innovations, Incorporated or any subsidiary of the corporation;

(Q) Any conveyance of a parcel in connection with the acquisition of properties to effectuate the development of the overall project, as defined in section 32-651;

(R) The conversion of a general or limited partnership to a limited liability company;

(S) The transfer of general partnership property held in the names of all of its general partners to a general partnership which includes as general partners immediately after the transfer all of the same persons as were general partners immediately prior to the transfer;

(T) The transfer of general partnership property held in the names of all of its general partners to a limited liability company which includes as members immediately after the transfer all of the same persons as were general partners immediately prior to the transfer;

(U) Acquisition of an establishment by any governmental or quasi-governmental condemning authority;

(V) Conveyance of any real property or business operation that would qualify as an establishment solely as a result of (i) the generation of more than one hundred kilograms of universal waste in a calendar month, (ii) the storage, handling or transportation of
universal waste generated at a different location, or (iii) activities
undertaken at a universal waste transfer facility, provided any such
real property or business operation does not otherwise qualify as an
establishment; there has been no discharge, spillage, uncontrolled loss,
seepage or filtration of a universal waste or a constituent of universal
waste that is a hazardous substance at or from such real property or
business operation; and universal waste is not also recycled, treated,
except for treatment of a universal waste pursuant to 40 CFR
273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at
such real property or business operation;

(W) Conveyance of a unit in a residential common interest
community in accordance with section 22a-134i;

(X) Acquisition of an establishment that is in the abandoned
brownfield cleanup program established pursuant to section 32-768
and all subsequent transfers of the establishment, provided the
establishment is undergoing remediation or is remediated in
accordance with subsection (f) of section 32-768;

(Y) Any transfer of title from a bankruptcy court or a municipality
to a nonprofit organization;

(Z) Acquisition of an establishment that is in the brownfield
remediation and revitalization program and all subsequent transfers of
the establishment, provided the establishment is in compliance with
the brownfield investigation plan and remediation schedule, the
commissioner has issued a no audit letter or successful audit closure
letter in response to a verification or interim verification submitted
regarding the remediation of such establishment under the brownfield
remediation and revitalization program, or a one-hundred-eighty-day
period has expired since a verification or interim verification
submitted regarding the remediation of such establishment under the
brownfield remediation and revitalization program without an audit
decision from the Commissioner of Energy and Environmental
Protection;
(AA) Conveyance of an establishment in connection with the acquisition of properties to effectuate the development of a project certified and approved pursuant to section 32-9v, provided any such property is investigated and remediated in accordance with section 22a-133y; or

(BB) Conveyance from the Department of Transportation to the Connecticut Airport Authority of any properties comprising (i) Bradley International Airport and all related improvements and facilities now in existence and as hereafter acquired, added, extended, improved and equipped, including any property or facilities purchased with funds of, or revenues derived from, Bradley International Airport, and any other property or facilities allocated by the state, the Connecticut Airport Authority or otherwise to Bradley International Airport, (ii) the state-owned and operated general aviation airports, including Danielson Airport, Groton/New London Airport, Hartford Brainard Airport, Waterbury-Oxford Airport and Windham Airport and any such other airport as may be owned, operated or managed by the Connecticut Airport Authority and designated as general aviation airports, (iii) any other airport as may be owned, operated or managed by the Connecticut Airport Authority, and (iv) any airport site or any part thereof, including, but not limited to, any restricted landing areas and any air navigation facilities.

Sec. 4. Subdivision (3) of section 22a-134 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2014):

(3) "Establishment" means any real property at which or any business operation from which (A) on or after November 19, 1980, there was generated, except as the result of (i) remediation of polluted soil, groundwater or sediment, or (ii) the removal or abatement of hazardous building materials, more than one hundred kilograms of hazardous waste in any one month, (B) hazardous waste generated at a different location was recycled, reclaimed, reused, stored, handled, treated, transported or disposed of, (C) the process of dry cleaning was
conducted on or after May 1, 1967, (D) furniture stripping was
conducted on or after May 1, 1967, or (E) a vehicle body repair facility
was located on or after May 1, 1967;

Sec. 5. Subdivision (11) of section 22a-134 of the 2014 supplement to
the general statutes is repealed and the following is substituted in lieu
thereof (Effective October 1, 2014):

(11) "Form II" means a written certification by the transferor of an
establishment on a form prescribed and provided by the commissioner
that the parcel or portion of the parcel has been investigated in
accordance with prevailing standards and guidelines and that (A) any
pollution caused by a discharge, spillage, uncontrolled loss, seepage or
filtration of hazardous waste or a hazardous substance which has
occurred from the establishment or portion of a parcel of such
establishment has been remediated in accordance with the remediation
standards and that the remediation has been approved in writing by
the commissioner or has been verified pursuant to section 22a-133x or
section 22a-134a in writing attached to such form by a licensed
environmental professional to have been performed in accordance
with the remediation standards and that since any such written
approval or verification, including any approval or verification for a
portion of an establishment, no discharge, spillage, uncontrolled loss,
seepage or filtration of hazardous waste or hazardous substances has
occurred at any portion of the establishment, (B) the commissioner has
determined in writing or a licensed environmental professional has
verified pursuant to section 22a-133x or section 22a-134a in writing,
attached to the form that no remediation is necessary to achieve
compliance with the remediation standards, or (C) a Form IV
verification was previously submitted to the commissioner and, since
the date of the submission of the Form IV, no discharge, spillage,
uncontrolled loss, seepage or filtration of hazardous waste or a
hazardous substance has occurred at the establishment or portion of a
parcel of such establishment, which certification is based on an
investigation of the parcel in accordance with prevailing standards and
Sec. 6. Subdivision (13) of section 22a-134 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2014):

(13) "Form IV" means a written certification signed by one or more certifying parties on a form prescribed and provided by the commissioner and which is accompanied by a written determination by the commissioner or by a verification or interim verification by a licensed environmental professional pursuant to section 22a-134a or 22a-133x, which certification states and is accompanied by documentation demonstrating that the parcel or portion of the parcel has been investigated in accordance with prevailing standards and guidelines and that (A) there has been a discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or a hazardous substance on the establishment, and (B) all actions to remediate any pollution caused by any release at the establishment have been taken in accordance with the remediation standards except postremediation monitoring, natural attenuation monitoring or the recording of an environmental land use restriction, and (C) the person or persons signing the certification agree, in accordance with the representations made in the form, to conduct postremediation monitoring or natural attenuation monitoring in accordance with the remediation standards and if further investigation and remediation are necessary to take further action to investigate the establishment in accordance with prevailing standards and guidelines and to remediate the establishment in accordance with the remediation standards;

Sec. 7. Subdivision (19) of section 22a-134 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2014):

(19) "Verification" means the rendering of a written opinion by a licensed environmental professional on a form prescribed by the commissioner that an investigation of the parcel or portion of the
parcel has been performed in accordance with prevailing standards and guidelines and that the establishment or portion of a parcel of such establishment has been remediated in accordance with the remediation standards;

Sec. 8. Subdivision (28) of section 22a-134 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2014):

(28) "Interim verification" means a written opinion by a licensed environmental professional, on a form prescribed by the commissioner, that (A) the investigation of the parcel or portion of the parcel has been performed in accordance with prevailing standards and guidelines, (B) the remediation has been completed in accordance with the remediation standards, except that, for remediation standards for groundwater, the selected remedy is in operation but has not achieved the remediation standards for groundwater, (C) identifies the long-term remedy being implemented to achieve groundwater standards, the estimated duration of such remedy, and the ongoing operation and maintenance requirements for continued operation of such remedy, and (D) there are no current exposure pathways to the groundwater area that have not yet met the remediation standards.

Sec. 9. Section 22a-134 of the 2014 supplement to the general statutes is amended by adding subdivision (29) as follows (Effective October 1, 2014):

(NEW) (29) "Hazardous building material" means any building material that contains polychlorinated biphenyls, asbestos, any hazardous substance or any toxic substance identified in accordance with the Toxic Substances Control Act (15 USC 2601 et seq.).

Sec. 10. Subsection (g) of section 22a-134a of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2014):

(g) (1) (A) Except as provided in subsection (h) of this section, the
certifying party to a Form III shall, not later than seventy-five days after the receipt of the notice that such form is complete or such later date as may be approved in writing by the commissioner, submit a schedule for the investigation of the parcel and remediation of the establishment. Such schedule shall, unless a later date is specified in writing by the commissioner, provide that the investigation shall be completed within two years of the date of receipt of such notice, remediation shall be initiated not later than three years after the date of receipt of such notice and remediation shall be completed sufficient to support either a verification or interim verification within a time frame set forth in subparagraphs (B) and (C) of this subdivision. The schedule shall also include a schedule for providing public notice of the remediation prior to the initiation of such remediation in accordance with subsection (i) of this section. Not later than two years after the date of the receipt of the notice that the Form III is complete, unless the commissioner has specified a later day, in writing, the certifying party shall submit to the commissioner documentation, approved in writing by a licensed environmental professional and in a form prescribed by the commissioner, that the investigation has been completed in accordance with prevailing standards and guidelines. Not later than three years after the date of the receipt of the notice that the Form III is complete, unless the commissioner has specified a later day in writing, the certifying party shall notify the commissioner in a form prescribed by the commissioner that the remediation has been initiated, and shall submit to the commissioner a remedial action plan approved in writing by a licensed environmental professional in a form prescribed by the commissioner. Notwithstanding any other provision of this section, the commissioner may determine at any time that the commissioner's review and written approval is necessary and in such case shall notify the certifying party that the commissioner's review and written approval is necessary. Such certifying party shall investigate the parcel and remediate the establishment in accordance with the schedule or the schedule specified by the commissioner.

(B) For a certifying party that submitted a Form III or Form IV
before October 1, 2009, when remediation of the entire establishment is complete, the certifying party shall achieve the remediation standards for the establishment sufficient to support a final verification and shall submit to the commissioner a final verification by a licensed environmental professional.

(C) For a certifying party that submits a Form III or Form IV after October 1, 2009, not later than eight years after the date of receipt of the notice that the Form III or Form IV is complete, unless the commissioner has specified a later date in writing, the certifying party shall achieve the remediation standards for the establishment sufficient to support a final or interim verification and shall submit to the commissioner such final or interim verification by a licensed environmental professional. Any such final verification may include and rely upon a verification for a portion of the establishment submitted pursuant to subdivision (2) of this subsection. Verifications shall be submitted on a form prescribed by the commissioner. The certifying party may request a verification or interim verification filing extension. The commissioner shall grant a reasonable extension if the certifying party demonstrates to the commissioner’s satisfaction that: (i) Such certifying party has made reasonable progress toward investigation and remediation of the establishment; and (ii) despite best efforts, circumstances beyond the control of the certifying party have significantly delayed the remediation of the establishment.

(D) A certifying party who submits an interim verification shall, until the remediation standards for groundwater are achieved, operate and maintain the long-term remedy for groundwater in accordance with the remedial action plan, the interim verification and any approvals by the commissioner, prevent exposure to the groundwater plume and submit annual status reports to the commissioner.

(E) The certifying party to a Form IV shall submit with the Form IV a schedule for the groundwater monitoring and recording of an environmental land use restriction, as applicable.
(2) If a certifying party completes the remediation for a portion of an establishment, such party may submit a verification or an interim verification by a licensed environmental professional for any such portion of an establishment. The certifying party shall be deemed to have satisfied the requirements of this subsection for that portion of the establishment covered by any such verification or interim verification. If any portion of an establishment for which a verification or interim verification is submitted pursuant to this subdivision is transferred or conveyed or undergoes a change in ownership before remediation of the entire establishment is complete that would not otherwise be subject to the provisions of sections 22a-134 to 22a-134e, inclusive, the certifying party shall provide notice to the commissioner of such transfer, conveyance or change in ownership not later than thirty days after any such transfer, conveyance or change in ownership.

(3) (A) The commissioner may conduct an audit of any verification or interim verification submitted pursuant to this section, but shall not conduct an audit of a final verification of an entire establishment submitted pursuant to subdivision (1) of this subsection after three years have passed since the date of the commissioner's receipt of such final verification unless an exception listed in subparagraph (C) of this subdivision applies. Upon completion of an audit, the commissioner shall send written audit findings to the certifying party and the licensed environmental professional who verified. The three-year time frame for an audit of a final verification of an entire establishment shall apply to such final verifications received by the commissioner after October 1, 2007.

(B) The commissioner may request additional information during an audit. If such information has not been provided to the commissioner within ninety days of the commissioner's request for such information or any longer time as the commissioner may determine in writing, the commissioner may either (i) suspend the audit, which for a final verification shall suspend the running of the three-year audit time...
frame until such time as the commissioner receives all the information
requested, or (ii) complete the audit based upon the information
provided in the verification before the request for additional
information.

(C) The commissioner shall not conduct an audit of a final
verification of an entire establishment after three years from receipt of
such verification pursuant to this subdivision unless (i) the
commissioner has reason to believe that a verification was obtained
through the submittal of materially inaccurate or erroneous
information, or otherwise misleading information material to the
verification or that misrepresentations were made in connection with
the submittal of the verification, (ii) a verification is submitted
pursuant to an order of the commissioner pursuant to subsection (j) of
this section, (iii) any post-verification monitoring, or operations and
maintenance, is required as part of a verification and which has not
been done, (iv) a verification that relies upon an environmental land
use restriction was not recorded on the land records of the
municipality in which such land is located in accordance with section
22a-133o and applicable regulations, (v) the commissioner determines
that there has been a violation of sections 22a-134 to 22a-134e, or (vi)
the commissioner determines that information exists indicating that
the remediation may have failed to prevent a substantial threat to
public health or the environment.

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