

By Representative Pickens

1 A bill to be entitled
2 An act relating to judgment liens on personal
3 property; amending s. 55.201, F.S.; revising
4 language with respect to the central database
5 of judgment liens on certain personal property;
6 amending s. 55.202, F.S.; revising language
7 with respect to liens on personal property
8 which are the result of judgments, orders, and
9 decrees; amending s. 55.203, F.S.; revising
10 language with respect to judgment lien
11 certificates; deleting the requirement of the
12 inclusion of certain information; amending s.
13 55.204, F.S.; revising language with respect to
14 the duration and continuation of a judgment
15 lien; revising a timeframe for the acquisition
16 of a second judgment lien; increasing the time
17 period for the retention of a lien file by the
18 Department of State; amending s. 55.205, F.S.;
19 revising language with respect to the effect of
20 a judgment lien; providing for certain liens to
21 be superior to a judgment lien; amending s.
22 55.206, F.S.; revising language with respect to
23 the amendment of a filed judgment lien;
24 amending s. 55.207, F.S.; revising language
25 with respect to the correction of a judgment
26 lien file; amending s. 55.208, F.S.; revising
27 language with respect to the effect of a filed
28 judgment lien on writs of execution previously
29 delivered to a sheriff; amending s. 55.209,
30 F.S.; revising language with respect to the
31 duties of the Department of State in collecting

1 processing fees for filed documents; amending
2 s. 55.604, F.S.; revising language with respect
3 to the recognition and enforcement of certain
4 foreign judgments; amending s. 55.605, F.S.;
5 revising language with respect to grounds for
6 nonrecognition; eliminating the requirement
7 that the department maintain a described list;
8 amending s. 56.21, F.S.; revising language with
9 respect to execution sales; amending s. 56.27,
10 F.S.; revising language with respect to
11 executions; providing effective dates.

12

13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Section 55.201, Florida Statutes, is
16 amended to read:

17 55.201 Central database of judgment liens on certain
18 personal property.--The Department of State shall maintain a
19 database of judgment lien files records regarding certain
20 personal property as described and established in accordance
21 with ss. 55.201-55.209.

22

23 Section 2. Section 55.202, Florida Statutes, is
24 amended to read:

25 55.202 Judgments, orders, and decrees; lien on
26 personal property.--

27 (1) A judgment lien securing the unpaid amount of any
28 money judgment may be acquired by the holder of a judgment
29 ~~entered by:~~

30 (a) Enforceable under the laws of Florida or of the
31 United States ~~A court of this state;~~

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1 ~~(b) A court of the United States having jurisdiction~~
2 ~~in this state;~~

3 ~~(c) A court of the United States or any other state to~~
4 ~~the extent enforceable under the Florida Enforcement of~~
5 ~~Foreign Judgments Act, ss. 55.501-55.509;~~

6 ~~(d) A foreign state as defined in the Uniform~~
7 ~~Out-of-country Foreign Money Judgment Recognition Act, ss.~~
8 ~~55.601-55.607, from the time and to the extent enforceable~~
9 ~~thereunder;~~

10 **(b)(e) Entered by** an issuing tribunal with respect to
11 a support order being enforced in this state pursuant to
12 chapter 88; or

13 **(c)(f) Enforceable by** operation of law pursuant to s.
14 61.14(6).

15 (2) A judgment lien may be acquired on a ~~the~~ judgment
16 debtor's interest in all personal property in this state
17 subject to execution under s. 56.061 ~~in this state~~, other than
18 fixtures, money, negotiable instruments, and mortgages.

19 (a) A judgment lien is acquired by filing ~~recording~~ a
20 judgment lien certificate in accordance with s. 55.203 with
21 the Department of State after the judgment has become final
22 and if no stay of the judgment or its enforcement is then in
23 effect ~~at the time the certificate is filed~~.

24 (b) For any liens, assessments, or judgments collected
25 by the Department of Revenue ~~tax lien or assessment granted by~~
26 ~~law to the state or any of the political subdivisions for any~~
27 ~~tax enumerated in s. 72.011~~, a judgment lien may be acquired
28 by filing the judgment ~~recording the lien~~ certificate
29 information or warrant with the Department of State in
30 accordance with subsection (5).

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1 (c) Except as provided in s. 55.208, the effective
2 date of a judgment lien is the date, including time of day, of
3 filing. However, A judgment lien is effective as of the date
4 of recording, but no lien attaches to property and a creditor
5 does not become a lien creditor as to liens under chapter 679
6 until the debtor acquires an interest in the property.
7 Priority among competing judgment liens is determined in order
8 of effective date.

9 (d) Except as provided in s. 55.204(3), a judgment
10 creditor may file record only one effective judgment lien
11 certificate based upon a particular judgment.

12 (3) Except as otherwise provided in s. 55.208, the
13 priority of a judgment lien acquired in accordance with this
14 section or s. 55.204(3) is established at the time the
15 judgment lien is filed recorded. Such judgment lien is deemed
16 filed recorded as of its effective date as provided in this
17 section or s. 55.204(3).

18 (4) As used in ss. 55.201-55.209, the terms "holder of
19 a judgment" and "judgment creditor" include the Department of
20 Revenue with respect to a judgment being enforced by the
21 Department of Revenue as the state IV-D agency.

22 (5) Liens, assessments, warrants, or judgments filed
23 pursuant to paragraph (2)(b) administered by or secured on
24 behalf of any state agency or political subdivision of the
25 state may be filed directly into the central database by the
26 Department of Revenue ~~such agency or subdivision~~ through
27 electronic or information data exchange programs approved by
28 the Department of State.

29 Section 3. Section 55.203, Florida Statutes, is
30 amended to read:

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1 55.203 Judgment lien certificate; content, filing
2 ~~recording~~, and indexing.--
3 (1) An original judgment lien certificate, as provided
4 in s. 55.202, must include:
5 (a) The legal name of each judgment debtor and, if a
6 recorded legal entity, the registered name and document filing
7 number as shown in the records of the Department of State.
8 (b) The last known address and, only if shown on the
9 judgment itself ~~social security number, federal identification~~
10 ~~number, or, in the instance in which the judgment creditor is~~
11 ~~a state agency or a political subdivision of the state, a~~
12 ~~taxpayer or other distinct identification number of each~~
13 ~~judgment debtor, except that in cases of default judgment, the~~
14 ~~social security number must be included only if known, or~~
15 ~~federal employer identification number of each judgment~~
16 ~~debtor.~~
17 (c) The legal name of the judgment creditor and, if a
18 recorded legal entity, the registered name and document filing
19 number as shown in the records of the Department of State, and
20 the name of the judgment creditor's attorney or duly
21 authorized representative, if any.
22 (d) The address ~~and social security number or federal~~
23 ~~employer identification number~~ of the judgment creditor.
24 (e) The identity of the court which entered the
25 judgment and the case number and the date the written judgment
26 was entered.
27 (f) The amount due on the money judgment and the
28 applicable interest rate.
29 (g) The signature of the judgment creditor or the
30 judgment creditor's attorney or duly authorized
31 representative.

1 (h) With respect to a lien created by a delivery of a
2 writ of execution to a sheriff prior to October 1, 2001, an
3 affidavit by the judgment creditor which attests that the
4 person or entity possesses any documentary evidence of the
5 date of delivery of the writ, and a statement of that date or
6 a certification by the sheriff of the date as provided in s.
7 30.17(4).

8 (2) A second judgment lien certificate, as provided in
9 s. 55.204(3), must include the information required in
10 subsection (1) and must state the file number assigned to the
11 file record of the original judgment lien certificate, the
12 money amount remaining unpaid, and the interest accrued
13 thereon.

14 (3) An amendment, as provided in s. 55.206, or a
15 correction statement, as provided in s. 55.207, must state the
16 file number of the judgment lien file record to which the
17 amendment or correction statement relates and must state the
18 action, change, or statement to be added.

19 (4) The Department of State shall examine, for
20 compliance with ss. 55.201-55.209, each document submitted for
21 filing recording and shall accept or reject the document
22 accordingly. For each judgment lien certificate filed
23 ~~recorded~~, the department shall:

24 (a) Create a file record.

25 (b) Assign a unique file number ~~to the record~~.

26 (c) Include the date and time of filing of the
27 judgment lien certificate.

28 (d) Maintain the file record in a database accessible
29 to the public via the Internet.

30 (e) Index the judgment lien certificate according to
31 the name of each judgment debtor.

1 (f) Index all subsequently filed documents relating to
2 an original judgment lien certificate in a manner that
3 associates them to the original judgment lien certificate.

4 (5) The validity of a judgment lien certificate filed
5 ~~recorded~~ under this section may not be defeated by technical
6 or clerical errors made by the filer in good faith which do
7 not adversely impact any person who reasonably relies thereon
8 ~~are not seriously misleading~~, nor may any claim of estoppel be
9 based on such errors.

10 (6) The Department of State shall prescribe mandatory
11 forms of all documents to be filed under this section.

12 Section 4. Section 55.204, Florida Statutes, is
13 amended to read:

14 55.204 Duration and continuation of judgment lien;
15 destruction of records.--

16 (1) Except as provided in this section, a judgment
17 lien acquired under s. 55.202 lapses and becomes invalid 5
18 years after the date of filing ~~recording~~ the judgment lien
19 certificate.

20 (2) Liens securing the payment of child support or tax
21 obligations as set forth in s. 95.091(1)(b) shall not lapse
22 until 20 years after the date of the original filing of the
23 warrant or other document required by law to establish a lien.
24 No second lien based on the original filing may be obtained.

25 (3) At any time within 6 months before or 6 months
26 after the scheduled lapse of a judgment lien under subsection
27 (1), the judgment creditor may acquire a second judgment lien
28 by filing ~~recording~~ a new judgment lien certificate. The
29 effective date of the second judgment lien is becomes
30 ~~effective on the date of lapse of the original judgment lien~~
31 ~~or on the date~~ on which the judgment lien certificate is filed

1 ~~recorded, whichever is later. The second judgment lien is~~
2 ~~deemed recorded on its effective date.~~ The second judgment
3 lien is ~~deemed~~ a new judgment lien and not a continuation of
4 the original judgment lien. The second judgment lien
5 permanently lapses and becomes invalid 5 years after its
6 effective date, and no additional liens based on the original
7 judgment or any judgment based on the original judgment may be
8 obtained.

9 (4) A judgment lien continues only as to itemized
10 property for an additional 90 days after lapse of the lien.
11 Such judgment lien will continue only if:

12 (a) The property had been itemized and its location
13 described with sufficient particularity in the instructions
14 for levy;

15 (b) The levy had been delivered to the sheriff prior
16 to the date of lapse of the lien to permit the sheriff to act;
17 and

18 (c) The property was located in the county in which
19 the sheriff has jurisdiction at the time of delivery of the
20 instruction for levy. Subsequent removal of the property does
21 not defeat the lien. A court may order continuation of the
22 lien beyond the 90-day period on a showing that extraordinary
23 circumstances have prevented levy.

24 (5) The date of lapse of a judgment lien whose
25 enforceability has been temporarily stayed or enjoined as a
26 result of any legal or equitable proceeding is tolled until 30
27 days after the stay or injunction is terminated.

28 (6) The Department of State shall maintain each
29 judgment lien file record and all information contained
30 therein for a minimum of 6 years ~~1 year~~ after the judgment
31 lien has been filed in a accordance with the provisions

1 herein, or for a minimum of 6 years after the second judgment
2 lien certificate has been filed in accordance with the
3 provisions herein ~~lapses in accordance with this section.~~

4 Section 5. Section 55.205, Florida Statutes, is
5 amended to read:

6 55.205 Effect of judgment lien.--

7 (1) A valid judgment lien gives the judgment creditor
8 the right to proceed against ~~take possession of~~ the property
9 of the debtor ~~subject to levy~~ through writ of execution,
10 garnishment, or other judicial process. A judgment creditor
11 who has not filed ~~recorded~~ a judgment lien certificate in
12 accordance with s. 55.203 or whose lien has lapsed may
13 nevertheless proceed against ~~take possession of~~ the judgment
14 debtor's property through such other judicial process. Such a
15 judgment creditor proceeding by writ of execution obtains a
16 lien as of the time of levy and only on the property levied
17 upon. Except as provided in s. 55.208, such judgment creditor
18 takes subject to the claims and interest of priority judgment
19 creditors.

20 (2) A buyer in the ordinary course of business as
21 defined in s. 671.201(9) takes free of a judgment lien created
22 under s. 55.203 ~~this section~~ even though the buyer knows of
23 its existence. A valid security interest as defined in chapter
24 679 in after-acquired property of the judgment debtor which is
25 perfected before the debtor acquires an interest in the
26 property ~~prior to the effective date of a judgment lien~~ takes
27 priority over the judgment lien on the after-acquired
28 property.

29 (3) An individual buyer of goods for personal, family,
30 or household use who buys the goods from a seller who held the
31 goods for personal, family, or household use and who pays

1 value without knowledge that the goods are subject to a
2 judgment lien is entitled, to the extent of the value paid, to
3 a lien on the goods superior to the judgment lien. If the
4 buyer has made improvements to the goods, or other reasons
5 justify doing so, a court may adjust the amount secured by the
6 lien as the equities may require.

7 (4) A buyer of corporate shares takes free of a
8 judgment lien hereunder if the buyer pays value in good faith
9 without knowledge of the judgment lien.

10 Section 6. Section 55.206, Florida Statutes, is
11 amended to read:

12 55.206 Amendment of judgment lien file ~~record~~;
13 termination, partial release, assignment, continuation,
14 tolling, correction.--

15 (1) An amendment to a judgment lien acquired under s.
16 55.202 may be filed ~~recorded~~ by or on behalf of the judgment
17 creditor of record, which may provide for:

18 (a) The termination, partial release, or assignment of
19 the judgment creditor's interest in a judgment lien;

20 (b) The continuation and termination of the
21 continuation of a judgment lien, as provided in s. 55.204(4);

22 (c) The tolling and termination of the tolling of a
23 lapse of a judgment lien, as provided in s. 55.204(5); or

24 (d) The correction or change of any other information
25 provided in the file ~~record~~ of a judgment lien.

26 (2) Within 30 days following receipt of a written
27 demand by a judgment debtor after the obligation underlying a
28 judgment lien has been fully or partially released, the
29 judgment lienholder must deliver to the judgment debtor a
30 written statement indicating that there is no longer a claim
31 for a lien on the personal property of the judgment debtor or

1 that the judgment lien has been partially released and setting
2 forth the value of the lien remaining unpaid as of the date of
3 the statement. A statement signed by an assignee must include
4 or be accompanied by a separate written acknowledgement of
5 assignment signed by or for the benefit of the judgment
6 creditor of record. If the judgment lienholder fails to
7 deliver such a statement within 30 days after proper written
8 demand therefor, the judgment lienholder is liable to the
9 judgment debtor for \$100, and for any actual or consequential
10 damages, including reasonable attorney's fees, caused by such
11 failure to the judgment debtor.

12 ~~(3)~~ The judgment debtor, the judgment creditor, or
13 assignee may file such statement with the Department of State.

14 Section 7. Section 55.207, Florida Statutes, is
15 amended to read:

16 55.207 Correction of judgment lien file record.--

17 (1) A person may file with the Department of State a
18 correction statement with respect to a judgment lien file
19 ~~record~~, as provided in s. 55.203, indexed under any the
20 person's name, if the person believes that the file record is
21 inaccurate or that the judgment lien certificate was
22 wrongfully filed.

23 (2) A correction statement must:

24 (a) State the judgment debtor named and the file
25 number assigned to the judgment lien file record to which the
26 correction statement relates;

27 (b) Indicate that it is a correction statement;

28 (c) Provide the basis for the person's belief that the
29 judgment lien certificate was wrongfully filed or the file
30 ~~record~~ is inaccurate; and

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1 (d) Indicate the manner in which the person believes
2 the file record should be corrected to cure any inaccuracy.

3 (3) The department shall ensure that a correction
4 statement is indexed and available in the same manner as any
5 filed recorded lien certificate in the central database of
6 judgment lien files records.

7 (4) The filing of a correction statement does not
8 affect the effectiveness of the judgment lien or other filing
9 filed record.

10 Section 8. Section 55.208, Florida Statutes, is
11 amended to read:

12 55.208 Effect of filed recorded judgment lien on writs
13 of execution previously delivered to a sheriff.--

14 (1) Any lien created by a writ of execution which has
15 been delivered to the sheriff of any county before October 1,
16 2001, remains in effect for 2 years thereafter as to any
17 property of the judgment debtor located in that county before
18 October 1, 2001, and remaining within that county after that
19 date. As to any property of the judgment debtor brought into
20 the county on or after October 1, 2001, such writs create no
21 lien, inchoate or otherwise.

22 (2) If a judgment creditor who has delivered a writ of
23 execution to a sheriff in any county prior to October 1, 2001,
24 properly files a judgment lien certificate with the Department
25 of State by October 1, 2003, the effective date of the
26 resulting judgment lien is filed ~~deemed recorded~~ on the date
27 the writ was delivered to the sheriff as to all ~~leviable~~
28 property subject to execution of the judgment debtor which is
29 located in that county on October 1, 2001, and that remains
30 continuously in that county thereafter. As to all other
31 property of the judgment debtor, the effective date of the

1 judgment lien is as provided in s. 55.202. The duration of all
2 judgment liens is as provided in s. 55.204, ~~regardless of the~~
3 ~~date on which a lien is determined to have been recorded.~~

4 (3) If a judgment creditor who has delivered a writ of
5 execution to a sheriff in any county before October 1, 2001,
6 does not properly file ~~record~~ a judgment lien certificate with
7 the Department of State by October 1, 2003, such writ is
8 considered to have been abandoned and to be of no effect after
9 October 1, 2003.

10 Section 9. Section 55.209, Florida Statutes, is
11 amended to read:

12 55.209 Department of State; processing fees,
13 responsibilities.--

14 (1) Except for liens, assessments, warrants, or
15 judgments filed electronically ~~by a state agency or a~~
16 ~~political subdivision of the state~~, as provided in s.
17 55.202(5)(~~6~~), the Department of State shall collect the
18 following nonrefundable processing fees for all documents
19 filed ~~or recorded~~ in accordance with ss. 55.201-55.209:

20 (a) For any judgment lien certificate or other
21 documents permitted to be filed, \$20.

22 (b) For the certification of any filed ~~recorded~~
23 document, \$10.

24 (c) For copies of judgment lien documents which are
25 produced by the Department of State, \$1 per page or part
26 thereof. However, no charge may be collected for copies
27 provided in an on-line electronic format via the Internet.

28 (d) For indexing a judgment lien by multiple judgment
29 debtor names, \$5 per additional name.

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1 (e) For each additional facing page attached to a
2 judgment lien certificate or document permitted to be filed ~~or~~
3 ~~recorded~~, \$5.

4 (2) Unless otherwise provided by law, the Department
5 of State may not conduct any search of the database
6 established under s. 55.201 to determine the existence of any
7 judgment lien file record or to perform any service other than
8 in connection with those services for which payment of
9 services are required under this section. The information
10 maintained in the database is for public notice purposes only
11 and the department may make no certification or determination
12 of the validity of any judgment lien acquired under ss. 55.202
13 and 55.204(3).

14 Section 10. Subsections (6) and (8) of section 55.604,
15 Florida Statutes, as amended by section 17 of chapter
16 2000-258, Laws of Florida, are amended to read:

17 55.604 Recognition and enforcement.--Except as
18 provided in s. 55.605, a foreign judgment meeting the
19 requirements of s. 55.603 is conclusive between the parties to
20 the extent that it grants or denies recovery of a sum of
21 money. Procedures for recognition and enforceability of a
22 foreign judgment shall be as follows:

23 (6) Once an order recognizing the foreign judgment has
24 been entered by a court of this state, the order and a copy of
25 the judgment ~~shall be filed with the Department of State and~~
26 may be recorded in any other county of this state without
27 further notice or proceedings, and shall be enforceable in the
28 same manner as the judgment of a court of this state.

29 (8) A judgment lien on personal property is acquired
30 only when a judgment lien certificate satisfying the
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1 requirements of s. 55.203 has been filed ~~recorded~~ with the
2 Department of State.

3 Section 11. Effective upon becoming a law, paragraph
4 (g) of subsection (2) of section 55.605, Florida Statutes, is
5 amended to read:

6 55.605 Grounds for nonrecognition.--

7 (2) A foreign judgment need not be recognized if:

8 (g) The foreign jurisdiction where judgment was
9 rendered would not give recognition to a similar judgment
10 rendered in this state. ~~For purposes of this paragraph, the~~
11 ~~Secretary of State shall establish and maintain a list of~~
12 ~~foreign jurisdictions where the condition specified in this~~
13 ~~paragraph has been found to apply.~~

14 Section 12. Section 56.21, Florida Statutes, as
15 amended by section 18 of chapter 2000-258, Laws of Florida, is
16 amended to read:

17 56.21 Execution sales; notice.--Notice of all sales
18 under execution shall be given by advertisement once each week
19 for 4 successive weeks in a newspaper published in the county
20 in which the sale is to take place. The time of such notice
21 may be shortened in the discretion of the court from which the
22 execution issued, upon affidavit that the property to be sold
23 is subject to decay and will not sell for its full value if
24 held until date of sale. On or before the date of the first
25 publication or posting of the notice of sale, a copy of the
26 notice of sale shall be furnished by certified mail to the
27 attorney of record of the judgment debtor, or to the judgment
28 debtor at the judgment debtor's last known address if the
29 judgment debtor does not have an attorney of record. Such copy
30 of the notice of sale shall be mailed even though a default
31 judgment was entered. When levying upon personal property, a

1 notice of such levy and execution sale and a copy of the
2 affidavit required by s. 56.27(4) shall be made by the levying
3 creditor to the attorney of record of the judgment creditor or
4 the judgment creditor who has filed ~~recorded~~ a judgment lien
5 certificate as provided in s. 55.202 or s. 55.204(3) at the
6 address listed in the judgment lien certificate, or, if
7 amended, in any amendment to the judgment lien certificate,
8 and to all secured creditors who have filed financing
9 statements as provided in s. 679.401 in the name of the
10 judgment debtor reflecting a security interest in property of
11 the kind to be sold at the execution sale at the address
12 listed in the financing statement, or, if amended, in any
13 amendment to the financing statement. Such notice shall be
14 made in the same manner as notice is made to any judgment
15 debtor under this section. When levying upon real property,
16 notice of such levy and execution sale shall be made to the
17 property owner of record in the same manner as notice is made
18 to any judgment debtor pursuant to this section. When selling
19 real or personal property, the sale date shall not be earlier
20 than 30 days after the date of the first advertisement.

21 Section 13. Subsection (1) of section 56.27, Florida
22 Statutes, as amended by section 19 of chapter 2000-258, Laws
23 of Florida, is amended to read:

24 56.27 Executions; payment of money collected.--

25 (1) All money received under executions shall be paid,
26 in the order prescribed, to the following: the sheriff, for
27 costs; the levying creditor in the amount of \$500 as
28 liquidated expenses; and the holder of the judgment lien with
29 the earliest filed effective date judgment lienholder having
30 ~~the earliest recorded judgment lien~~ acquired under ~~s. ss.~~
31 55.202, and s. 55.204(3), or s. 55.208(2) as set forth in an

1 affidavit required by subsection (4), or his or her attorney,
2 in satisfaction of the judgment lien, provided that the
3 judgment lien has not lapsed at the time of the levy. The
4 receipt of the attorney shall be a release of the officer
5 paying the money to him or her. When the name of more than one
6 attorney appears in the court file, the money shall be paid to
7 the attorney who originally commenced the action or who made
8 the original defense unless the file shows that another
9 attorney has been substituted.

10 Section 14. Except as otherwise provided herein, this
11 act shall take effect October 1, 2001.

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HOUSE SUMMARY

15

16 Revises provisions of law concerning judgment liens on
17 personal property to include reference to filed, rather
18 than recorded, liens. Provides for other technical
19 revisions to the law governing judgment liens on personal
20 property to provide for consistency. See bill for
21 details.

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