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## SENATE BILL 5495

State of Washington 68th Legislature 2023 Regular Session

By Senators Kuderer and Frame

- AN ACT Relating to property tax rebates for homeowners and renters; amending RCW 82.03.190; adding a new title to the Revised Code of Washington to be codified as Title 84A RCW; creating a new section; prescribing penalties; and providing an effective date.
- 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- NEW SECTION. Sec. 1. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.
  - (1) "Claimant" means an individual or individuals who reside in the same household that have applied for or are receiving a primary residence property tax exemption or a renter's credit during the calendar year for which a claim was filed as provided in this chapter.
  - (2) "Community land trust" means a private, nonprofit organization created to acquire and hold land for the benefit of a community and provide secure affordable access to land and housing for community residents.
- 18 (3) "Cooperative ownership" means a type of residential housing 19 where a corporation owns the housing units, and each resident is a 20 shareholder in the corporation based in part on the relative size of 21 the unit in which they reside.

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(4) "Department" means the department of revenue.

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- (5) "Gross rent" means the amount of rent paid by a claimant in cash or its equivalent for the right of occupancy of a qualified residence, as may be adjusted by the department under section 3(4)(f) of this act.
  - (6) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than 80 percent of the median family income, adjusted for household size, for the county where the household is located.
- 10 (7) "Manufactured/mobile home," "manufactured housing 11 cooperative," "mobile home park cooperative," and "park model" have 12 the same meanings as provided in RCW 59.20.030.
  - (8) "Primary residence property tax exemption" means a property tax exemption of a portion of the state property taxes due on a qualified residence as provided in section 2 of this act.
  - (9) "Principal place of residence" means a residence occupied for at least 183 days during a calendar year by a claimant. In the case of the renter's credit, a principal place of residence also includes multiple residences occupied, in the aggregate, for at least 183 days during a calendar year by a claimant.
    - (10) "Qualified residence" means:
- (a) For purposes of the primary residence property tax exemption, the claimant's principal place of residence, if the following conditions are met:
  - (i) The claimant is the legal or beneficial owner of the residence, holds a life estate in the residence, or holds an ownership interest in a cooperative housing entity that owns the residence;
- 29 (ii) The residence is located on a tax parcel with fewer than 30 three residences; and
- 31 (iii) Any portion of the claimant's primary residence is subject 32 to state property taxes.
  - (b) For purposes of the renter's credit, the residence or residences occupied by the claimant for a total of at least 183 days during a calendar year, where any portion of such residence or residences are subject to state property taxes.
- 37 (11) "Rent constituting property taxes" means an amount equal to 38 two percent of gross rent.
- 39 (12) "Renter's credit" means a refund of rent constituting 40 property taxes as provided in section 3 of this act.

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- (13) (a) "Residence" means a single-family dwelling unit, whether the unit is separate or part of a multiunit dwelling, including the land on which the dwelling stands, regardless of whether ownership of the single-family dwelling unit and the land on which the dwelling unit stands is vested in the same person.
  - (b) "Residence" includes:

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- (i) A single-family dwelling unit situated upon lands the fee of which is vested in or held in trust by the United States or any of its instrumentalities, a federally recognized Indian tribe, the state of Washington or any of its political subdivisions, or a municipal corporation;
- (ii) A single-family dwelling unit consisting of a manufactured/ mobile home or park model that has substantially lost its identity as a mobile unit by virtue of it being fixed in location and placed on a foundation with fixed pipe connections with sewer, water, or other utilities;
- 17 (iii) A single-family dwelling unit consisting of a floating home 18 as defined in RCW 82.45.032; and
- 19 (iv) An accessory dwelling unit that provides complete 20 independent living facilities for one or more persons, including 21 permanent provisions for living, sleeping, eating, cooking, and 22 sanitation.
- 23 (c) "Residence" does not include a nursing home, assisted living 24 facility, adult family home, or similar facility.
  - (14) "Single-family dwelling unit" means a structure maintained and used as a residential dwelling that is designed exclusively for occupancy for one family or household and includes permanent provisions for living, sleeping, eating, cooking, and sanitation facilities arranged and designed as permanent living quarters.
- 30 (15) "State property taxes" means property taxes levied by the 31 state under RCW 84.52.065.
- NEW SECTION. Sec. 2. (1) Beginning January 1, 2027, each claimant meeting the conditions of this section is eligible for a primary residence property tax exemption. The exemption is in the form of a refund of state property taxes paid and is equal to an amount as determined under subsections (2) and (3) of this section.
  - (2) (a) For taxes levied for collection in calendar year 2027, the primary residence property tax exemption is equal to the amount of state property taxes on up to \$250,000 of the assessed valuation of

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the claimant's qualified residence used to calculate the property taxes due on the qualified residence for the calendar year for which the primary residence property tax exemption is claimed.

- (b) For purposes of determining the primary residence property tax exemption for taxes levied for collection in each subsequent calendar year, the assessed value component of the exemption must be increased from the prior year. The amount of such increase for a year is equal to the percentage growth in the state property taxes levied for collection in the preceding year as compared to the state property taxes levied for collection two years ago. Beginning January 31, 2028, and by January 31st each year thereafter, the department is responsible for determining the increase in the assessed value component of the primary residence property tax exemption and may round the dollar amount of the assessed value increase to the nearest \$1,000. The department must publish the adjusted assessed value component of this exemption on its website.
- (3) (a) When an exemption amount determined under subsection (2) of this section is less than the maximum possible exemption under that subsection, the department must adjust the exemption amount determined under subsection (2) of this section. An exemption amount under this subsection (3) is equal to the equalized assessed value of the claimant's qualified residence multiplied by the aggregate state property tax rates for the county in which the qualified residence is located for taxes levied for collection in the year in which the application for the primary residence property tax exemption is made.
- (b) For purposes of this subsection (3), "equalized assessed value" means the lesser of:
- (i) The assessed value of the claimant's qualified residence used to calculate the property taxes due for the year for which the primary residence property tax exemption is claimed, divided by the county's combined indicated ratio used by the department to determine the equalized state levy for collection in that same year for the county in which the claimant's qualified residence is located; or
- (ii) \$250,000 for an exemption for state property taxes levied for collection in 2027, or, for subsequent years, the applicable assessed value determined by the department as provided in subsection (2)(b) of this section for state property taxes levied for collection in the year for which the exemption under this section is claimed.

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(4) The primary residence property tax exemption is in addition to, and applied after, the exemption provided in RCW 84.36.379 through 84.36.389.

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- (5)(a)(i) The primary residence property tax exemption must be annually claimed in a form and manner required by the department. Claims for the exemption must be received by the department by the last day of the calendar year for which the refund is claimed. The department may approve applications received after the deadline, as provided in section 4 of this act.
- (ii) The department must provide a claimant a paper application upon request.
- (b) claimant the claimant's designated The or representative must sign the application attesting that the property for which the primary residence property tax exemption sought is the claimant's principal place of residence and to the truth of the other information in the application. If the claimant holds a life estate in the qualified residence for which the primary residence property tax exemption is claimed and the claimant is not the taxpayer of record, the taxpayer of record must also sign the application. The signature requirements in this subsection (5)(b) may be met by an electronic signature. All signatures on an application must be made under penalty of perjury as provided in chapter 9A.72 RCW.
- (c) Notice of the primary residence property tax exemption and where to obtain further information about the exemption must be included on or with property tax statements and revaluation notices for residential property. The department and each county assessor and county treasurer are required to publicize the qualifications and manner of making claims for the primary residence property tax exemption, including paid advertisements or notices as deemed appropriate in the sole discretion of the department and county assessors and county treasurers.
- (6) The following conditions apply to the primary residence property tax exemption:
- (a) All property taxes due on the qualified residence must be paid in full for the year in which the application required under this section is submitted before the department makes a refund under this section to the claimant. If the claimant is delinquent on any property taxes, the department must send the claimant's primary residence property tax exemption to the treasurer of the county in

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which the claimant's qualified residence is located to be applied to the claimant's delinquent property taxes.

- (b) The qualified residence must be occupied as the claimant's principal place of residence as of the date of the signed application required under subsection (5) of this section. No claimant may receive the primary residence property tax exemption on more than one qualified residence in any calendar year. However, the confinement of the claimant to a hospital, nursing home, assisted living facility, or adult family home will not disqualify the claim of exemption if:
  - (i) The qualified residence is temporarily unoccupied;
- (ii) The qualified residence is occupied by the claimant's spouse or state registered domestic partner or a person financially dependent on the claimant for support; or
- (iii) The qualified residence is rented for the purpose of paying the claimant's costs of a nursing home, hospital, assisted living facility, or adult family home.
- (c) At the time of signing the application for exemption under this section:
- (i) The claimant must have owned, in fee or by contract purchase, or have held a life estate in, the qualified residence for which the primary residence property tax exemption is claimed; or
- (ii) If the claimant resides in a cooperative housing association, corporation, or partnership, including a mobile home park cooperative or manufactured housing cooperative, the claimant must own a share in the cooperative representing the unit or dwelling in which the claimant resides or the lot on which the claimant's manufactured/mobile home or park model is situated.
- (d) For purposes of this section, a qualified residence owned by a marital community, state registered domestic partners, or cotenants is owned by each spouse, domestic partner, or cotenant, and any lease for life or 99 years of a single-family dwelling unit or the land upon which it stands is a life estate in the residence.
- (e) Where a claimant has a life estate in, and is not the taxpayer of record for, their qualified residence, the claimant is not entitled to the exemption under this section unless the taxpayer of record confirms, in a form and manner required by the department, that the claimant is required to reimburse the taxpayer of record for the property taxes due on the claimant's qualified residence.

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(f) The claimant must not have received a renter's credit for the same year for which a primary residence property tax exemption is claimed, except:

- (i) For a qualified residence that includes a single-family dwelling unit owned by the claimant and located on leased land; and
- (ii) The refund under this section combined with the refund under section 3 of this act may not exceed the allowable amount under subsection (2) of this section.
- (g) A person may not claim a primary residence property tax exemption on behalf of a deceased individual.
- (h) The amount of the primary residence property tax exemption for a qualified residence may not result in a refund that exceeds the amount of state property taxes otherwise due on that residence.
- (7) For any fiscal period, the primary residence property tax exemption under this section must be approved by the legislature in the omnibus appropriations act before persons may claim the exemption during the fiscal period.
- (8) The legislature may limit eligibility for the primary residence property tax exemption to low-income households if the proposed amendment to Article VII of the state Constitution repealing the uniformity clause (Senate Joint Resolution No. . . (S-0739/23)) is validly submitted to and is approved and ratified by the voters.
- 23 (9) For purposes of this section, "taxpayer of record" means the 24 person shown on the county's tax rolls as the taxpayer for a 25 qualified residence.
  - NEW SECTION. Sec. 3. (1) Beginning January 1, 2027, each claimant meeting the conditions of this section is eligible for a renter's credit in the form of a refund, subject to funds appropriated for this specific purpose. The renter's credit for a year is the amount of rent constituting property taxes paid in the immediately preceding calendar year with respect to a qualified residence.
    - (2) (a) (i) The renter's credit must be annually claimed in a form and manner required by the department by the last day of the calendar year for which the refund is claimed. The department may approve applications received after the deadline, as provided in section 4 of this act.
- 38 (ii) The claimant must provide a copy of a mutually signed rental 39 or lease agreement between the landlord and tenant for the qualified

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residence or for each rental unit that together constitutes a qualified residence.

- (iii) The department must provide claimants a paper application form upon request.
- (b) The claimant must sign the application attesting that the rental property or properties for which the renter's credit is sought was the claimant's principal place of residence in the immediately preceding calendar year, the gross rent paid for that residence in the immediately preceding calendar year, and to the truth of the other information in the application. The signature requirements in this subsection (2)(b) may be met by an electronic signature. All signatures on an application must be made under penalty of perjury as provided in chapter 9A.72 RCW.
- (c) Where multiple individuals contribute to the payment of gross rent eligible for a credit under this section, the department must make separate refund payments to each claimant in an amount equal to the claimant's pro rata share of the refund.
- (3) Information about the renter's credit must be provided on the department's website, including qualifications and manner of making claims for the credit. Subject to funds appropriated for this specific purpose, the department must conduct public awareness and outreach efforts for the renter's credit.
  - (4) The following conditions apply to the renter's credit:
- (a)(i) In the year immediately preceding the year for which a claimant submitted an application for a credit under this section, the claimant must have occupied one or more rental units constituting a qualified residence and paid gross rent; and
- (ii) The claimant must be a Washington resident as of the date the claimant signed the application required under subsection (2) of this section. For purposes of this subsection (4)(a), "Washington resident" has the same meaning as in RCW 82.08.0206.
- (b) The amount of the renter's credit for a qualified residence must not result in a refund that exceeds the amount that would be allowed under section 2(2) of this act, if the claimant were eligible for the primary residence property tax exemption on the qualified residence in an amount determined under section 2(2) of this act.
- 37 (c) The qualified residence for which a renter's credit is 38 claimed must be subject to property taxation for the year for which 39 the renter's credit is claimed.

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(d) The claimant must have paid gross rent, with respect to a qualified residence, during the calendar year immediately preceding the year for which a claim for a renter's credit is made.

- (e) The claimant must not have received a primary residence property tax exemption for the same year for which a renter's credit is claimed, except:
- (i) For a qualified residence that includes a single-family dwelling unit owned by the claimant and located on leased land; and
- (ii) In such cases, the refund under this section combined with the refund under section 2 of this act may not exceed the allowable amount under section 2(2) of this act.
- (f)(i) If the landlord and claimant have not dealt with each other at arm's length and the department determines that the gross rent paid by the claimant was excessive, the department may adjust the gross rent paid to a reasonable rental amount for purposes of rent constituting property taxes paid.
- (ii) Any redetermination of gross rent under this subsection is subject to the appeal provisions under section 6 of this act.
  - (g) A person may not claim a renter's credit on behalf of a deceased individual.
- (5) For any fiscal period, the renter's credit under this section must be approved by the legislature in the omnibus appropriations act before persons may claim the credit during the fiscal period.
- (6) The legislature may limit eligibility for the renter's credit to low-income households if the proposed amendment to Article VII of the state Constitution repealing the uniformity clause (Senate Joint Resolution No. . . (S-0739/23)) is validly submitted to and is approved and ratified by the voters.
- NEW SECTION. Sec. 4. (1)(a) The department may approve applications after the applicable deadline in section 2 or 3 of this act when the application is filed within six months of the original deadline, and either:
  - (i) The claimant has not been late in filing an application under section 2 or 3 of this act with the department for the two years prior to the year for which the application was filed late; or
- 36 (ii) The claimant is able to substantiate that the late filing 37 was caused by circumstances beyond the claimant's control.
- 38 (b) For purposes of this subsection (1), "circumstances beyond 39 the claimant's control" means circumstances that are immediate,

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- 1 unexpected, or in the nature of an emergency, when the circumstances
- 2 result in the claimant not having reasonable time or opportunity to
- 3 file an application by the deadline. Depending on the particular
- 4 facts of the claimant's situation, circumstances beyond the
- 5 claimant's control may include:
- 6 (i) Serious illness of the claimant or a member of the claimant's immediate family, as defined in RCW 42.17A.005;
- 8 (ii) The application was mailed timely but inadvertently sent to 9 the wrong agency;
- 10 (iii) The claimant received incorrect, ambiguous, or misleading 11 written advice from the department regarding the qualifications or 12 filing requirements for the primary residence property tax exemption 13 or renter's credit;
- 14 (iv) Natural disaster, such as flood or earthquake, occurring 15 shortly before the filing deadline;
- 16 (v) Delay or loss of the application by the postal service, and 17 documented by the postal service;
- 18 (vi) The unavoidable absence of the claimant shortly before the 19 filing deadline, which does not include vacations, business trips, 20 and the like;
- (vii) The destruction of the claimant's primary residence by fire or other casualty shortly before the filing deadline;
- (viii) The department did not respond within a reasonable time to the claimant's written request for an application for the primary residence property tax exemption or renter's credit; or
- 26 (ix) Other circumstances of a similar nature as those described 27 in this subsection (1) (b).
- 28 (2) If the department finds that a claimant does not meet the 29 requirements for the primary residence property tax exemption or a 30 renter's credit, the department must deny the claimant's application.
- NEW SECTION. Sec. 5. (1)(a) If the department determines that the claimant received a primary residence property tax exemption refund or renter's credit that the claimant was not entitled to, or received a larger refund than the claimant was entitled to, the department must assess against the claimant the overpaid amount. Such amounts are due within six months following the date the department issued the assessment.
- 38 (b) If the full amount due is not paid by the due date provided 39 in (a) of this subsection, the department must add interest, as

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provided under RCW 82.32.050, to the amount due starting from the due date in (a) of this subsection until the amount due under this subsection (1) is paid in full to the department. Except as otherwise provided in this subsection (1), penalties may not be assessed on amounts due under this subsection (1).

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- (c) If an amount due under this subsection is not paid in full by the date due, or the department issues a warrant for the collection of amounts due under this subsection, the department may assess the applicable penalties under RCW 82.32.090.
- (d) If the department finds by clear, cogent, and convincing evidence that a claimant knowingly submitted, caused to be submitted, or consented to the submission of, a fraudulent claim for primary residence property tax refund or renter's credit under this chapter, the department must assess a penalty of 50 percent of the overpaid amount. This penalty is in addition to any other applicable penalties assessed in accordance with (c) of this subsection. In addition, the claimant is barred from receiving a primary residence property tax exemption or renter's credit under this chapter for the 10 years following the year for which the claimant submitted a fraudulent claim under this chapter.
- (2) If, within the period allowed for refunds under RCW 82.32.060, the department finds that a claimant received a lesser refund than the claimant was entitled to, the department must remit the additional amount due under this chapter to the claimant.
- 25 (3) Interest does not apply to primary residence property tax 26 exemption and renter's credit refunds under this chapter.
- 27 <u>NEW SECTION.</u> **Sec. 6.** (1) (a) If a claimant disagrees with any decision of the department affecting the claimant's eligibility for a 28 primary residence property tax exemption or renter's credit under 29 30 this chapter, the amount of such exemption or credit, or the 31 claimant's obligation to repay all or part of a refund under this chapter, the claimant may petition the department for a correction of 32 the department's decision within 60 days of the date of the 33 department's decision. The department may, in its discretion, grant 34 extensions of the 60-day deadline under this subsection (1) but only 35 when the department receives the request for extension in writing 36 within the 60-day deadline in this subsection (1). 37
- 38 (b)(i) A petition for correction must be in a form and manner 39 determined by the department; and

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1 (ii) The petition must include an explanation of why the claimant 2 believes the department's decision is legally incorrect.

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- (2) The department must consider a petition by a claimant under subsection (1) of this section and may:
- 5 (a) Grant or deny the petition based on the information provided 6 in the petition and other information in the department's possession; 7 or
- 8 (b) Grant a conference with the claimant, which must be informal 9 under such procedures and processes as provided by rule of the 10 department.
- 11 (3) The department may make such determination as may appear to 12 it to be just and lawful and must mail a copy of its determination to 13 the petitioner or provide a copy of its determination electronically 14 as provided in RCW 82.32.135.
- 15 (4) A claimant who disagrees with a determination from the 16 department under this section may appeal the determination to the 17 board of tax appeals pursuant to the provisions of chapter 82.03 RCW 18 and rules adopted by the board of tax appeals.
- NEW SECTION. Sec. 7. (1) Subject to funds appropriated for this specific purpose, the department must develop and maintain a centralized computer system to facilitate the exchange of data between the department and each county assessor and county treasurer necessary to implement and administer this chapter.
  - (2) County assessors, county treasurers, and the department must work together to facilitate the electronic transfer to the department of information maintained by county assessors and county treasurers that is necessary to administer this chapter.
  - (3) The department may conduct audits of recipients of the primary residence property tax exemption and renter's credit to determine whether the recipient was eligible for the exemption or credit and the proper amount of exemption or credit the recipient was eligible for, if any.
- 33 (4) The department may adopt such rules in accordance with 34 chapter 34.05 RCW, and prescribe such forms, as the department deems 35 useful to implement and administer this chapter.
- NEW SECTION. Sec. 8. Chapter 82.32 RCW applies to the administration of the primary residence property tax exemption and renter's credit in this chapter, to the extent that such provisions

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of chapter 82.32 RCW do not clearly conflict with the provisions of this chapter.

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- Sec. 9. RCW 82.03.190 and 2012 c 39 s 3 are each amended to read as follows:
- (1) Except as provided in subsection (2) of this section, any 5 person having received notice of a denial of a petition or a notice 6 of determination made under RCW 82.32.160, 82.32.170, 82.34.110, 7 ((<del>or</del>)) 82.49.060, or section 6 of this act may appeal by filing in 8 accordance with RCW 1.12.070 a notice of appeal with the board of tax 9 10 appeals within ((thirty)) 30 days after the mailing of the notice of 11 such denial or determination. ((In)) Except as provided in this subsection, in the notice of appeal the taxpayer must set forth the 12 amount of the tax which the taxpayer contends should be reduced or 13 refunded and the reasons for such reduction or refund, in accordance 14 15 with rules of practice and procedure prescribed by the board. 16 However, if the notice of appeal relates to an application made to 17 the department under chapter 82.34 RCW, the taxpayer must set forth 18 the amount to which the taxpayer claims the credit or exemption should apply, and the grounds for such contention, in accordance with 19 20 rules of practice and procedure prescribed by the board. If the 21 notice of appeal relates to a determination under section 6 of this act, the notice must include an explanation of why the department's 22 determination is incorrect. The board must transmit a copy of the 23 24 notice of appeal to the department and all other named parties within thirty days of its receipt by the board. If the taxpayer intends that 25 the hearing before the board be held pursuant to the administrative 26 27 procedure act (chapter 34.05 RCW), the notice of appeal must also so 28 state. In the event that the notice of appeal does not so state, the department may, within thirty days from the date of its receipt of 29 30 the notice of appeal, file with the board notice of its intention 31 that the hearing be held pursuant to the administrative procedure 32 act.
  - (2) No person may file a notice of appeal with the board of tax appeals to contest the amount of spirits taxes assessed or asserted to be due by the department of revenue unless the person has first paid the full amount of the contested spirits taxes. For purposes of this subsection, "spirits taxes" has the same meaning as in RCW 82.08.155.

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- 1 <u>NEW SECTION.</u> **Sec. 10.** RCW 82.32.805 and 82.32.808 do not apply
- 2 to this act.
- 3 <u>NEW SECTION.</u> **Sec. 11.** Sections 1 through 8 of this act
- 4 constitute a new chapter in a new title in the Revised Code of
- 5 Washington, to be codified as Title 84A RCW.
- 6 <u>NEW SECTION.</u> **Sec. 12.** This act takes effect January 1, 2024.

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