

**Note: May 11, 2012 is the Claims Deadline.**

**If You Are African American and Experienced Farm Loan Discrimination by the USDA between 1981 and 1996, Or Are the Heir, Kin, or Legal Representative of Someone Who Experienced That Discrimination, You Could Receive Money From a \$1.25 Billion Settlement.**

*A federal court authorized this notice. You are not being sued.*

- There is a proposed Settlement in a class action lawsuit that claims the U.S. Department of Agriculture (USDA) discriminated against African Americans who applied for farm loans and other benefits between 1981 and 1996.
- This Settlement is only for certain people who tried to file a late claim in *Pigford v. Glickman* (“*Pigford*”), an earlier farm loan discrimination lawsuit by black farmers against the USDA.
- Your legal rights are affected whether you act or don’t act, so please read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
<b>File a Claim</b>	If you qualify, file a claim for a cash payment and in some cases, reduction or forgiveness of outstanding USDA loans. <i>See</i> Questions 6-17.
<b>Object/Comment on Settlement</b>	Tell the Court what you think about the Settlement. <i>See</i> Question 25.
<b>Go to a Hearing</b>	Ask to speak in Court about the Settlement. <i>See</i> Question 28.
<b>Do Nothing</b>	You will not receive an award under the Settlement, and you will give up your rights to sue the USDA about the discrimination claims in this lawsuit in the future. <i>See</i> Questions 24 and 29.

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will not be made until after the Court approves the Settlement, any appeals are resolved, and all eligible claims have been decided. Please be patient.

**QUESTIONS? CALL TOLL-FREE 1-877-810-8110- OR VISIT [WWW.BLACKFARMERCASE.COM](http://WWW.BLACKFARMERCASE.COM)**

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### BASIC INFORMATION

#### 1. Why is there a notice?

A class action Settlement has been reached between certain African American farmers and the United States Department of Agriculture (USDA). If you are eligible for benefits from this Settlement, you have a right to know about it and about all of your options before the Court decides whether to approve the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for those benefits, and how to get them.

Judge Paul Friedman of the United States District Court for the District of Columbia is overseeing this class action. The case is known as *In re Black Farmers Discrimination Litigation*, and the case number is 08-mc-0511 (D.D.C.). The people who sued are called Plaintiffs and the person they sued, the Secretary of the USDA, is called the Defendant.

#### 2. What is the *Pigford* case about and how does it relate to this Settlement?

In 1999, a lawsuit called *Pigford v. Glickman* (“*Pigford*”) was settled. The lawsuit involved claims by African American farmers that the USDA had discriminated against them between 1981 and 1996 based on race, wrongfully denying them farm loans, loan servicing, and other benefits, or giving them loans with unfair terms. Many people who may have been entitled to benefits under that settlement did not file timely claims.

The Court in *Pigford* allowed people to file a petition (“Late-Filing Request”) to request that their claims be considered after the original claims deadline (October 12, 1999). The Late-Filing Request had to be submitted by September 15, 2000. If those people could not demonstrate that their late filing was due to “extraordinary circumstances beyond their control,” their claim in *Pigford* was denied. For purposes of this notice, these denied people are called “Late Filers.”

Many additional people filed Late-Filing Requests on or after September 16, 2000 and on or before June 18, 2008, and were also denied participation in *Pigford* due to the lateness of their claim. For purposes of this notice, these people are called “Late-Late Filers.”

Late Filers and Late-late Filers from the *Pigford* case may be eligible to file claims under this new Settlement.

#### 3. What is the current Settlement about?

This new Settlement involves the same type of claims that were the subject of the *Pigford* settlement. Specifically, it involves claims by African American farmers that the USDA discriminated against them between 1981 and 1996 based on race, wrongfully denying them farm loans, loan servicing, and other benefits, or giving them loans with unfair terms. The current Settlement will only provide cash payments

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and debt relief to Late Filers and Late-Late Filers in *Pigford* who did not have their *Pigford* claims determined on the merits. (See Question 8 for an explanation of “determined on the merits.”). Congress has approved \$1.25 billion to pay claims and other expenses under this Settlement.

#### 4. Why is this a Class Action?

In a class action lawsuit, one or more people called “Class Representatives” sue on behalf of other people who have similar claims. All these people together are a “Class” or “Class Members.” One court decides all the issues in the lawsuit for all the Class Members.

#### 5. Why is there a Settlement?

The Court has not decided in favor of the Class or the USDA. Instead, both sides have agreed to a Settlement, which is an agreement between the Class and the USDA. That way, both sides avoid the cost and risk of continuing the case, and Class Members who prove they experienced discrimination will receive money without having to go through with individual lawsuits. The Class Representatives and the lawyers representing them think this Settlement is best for all Class Members.

### WHO IS INCLUDED IN THE SETTLEMENT?

The Settlement Agreement provides relief to individuals who are both Class Members *and* who, in addition, are able to meet a series of specific requirements for receiving an award. How to determine if you are a Class Member and the additional requirements for receiving an award are described below.

#### 6. Am I a Class Member?

To know if you may receive money from this Settlement, you first have to know if you are a Class Member. To be a Class Member, you must:

1. Be a Late Filer or Late-Late Filer; **and**
2. Have not already received a determination on the merits of your discrimination claim in *Pigford*.

#### 7. How do I know if I am a Late Filer or a Late-Late Filer?

A neutral company appointed by the Court to serve as Claims Administrator has information on people who filed Late-Filing Requests in the *Pigford* case. This information will help them determine if you filed a Late-Filing Request and whether you are a Late Filer or a Late-Late Filer.

- Late Filers are people who submitted Late-Filing Requests on or between October 13, 1999 and September 15, 2000.
- Late-Late filers are people who submitted Late-Filing Requests on or between September 16, 2000 and June 18, 2008.

You may submit any additional documents to the Claims Administrator that help prove you are a Late Filer or Late-Late Filer.

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To find out if the Claims Administrator has you listed as a Late Filer, or has documentation indicating you may be a Late-Late Filer, call 1-877-810-8110.

### **8. How do I know if I already received a determination on the merits of my *Pigford* claim?**

Only a Late Filer or Late-Late Filer who has *not* previously received a determination on the merits of his or her *Pigford* claim is a Class Member. You received a determination on the merits if:

- 1) Your *Pigford* claim was approved or denied,
- 2) Your *Pigford* claim was determined to be defective by the *Pigford* Facilitator, **or**
- 3) Your *Pigford* Late-Filing Request was approved and you then failed to file a claim on time.

The Claims Administrator has a list of everyone who received a determination on the merits of their claims in *Pigford*. To see if your name is on this list, call the Claims Administrator at 1-877-810-8110.

### **9. If I am a Class Member, am I eligible for an award under the Settlement?**

If you are a Class Member (you are a Late Filer or a Late-Late Filer and did not receive a determination on the merits of your *Pigford* claim), the Court has said you may be eligible for an award under the Settlement if you, or the person on whose behalf you are filing a claim, can meet **ALL** of the following criteria:

- a) You are an African American;
- b) You farmed or attempted to farm between January 1, 1981 and December 31, 1996;
- c) You owned or leased, or attempted to own or lease, farm land between January 1, 1981 and December 31, 1996;
- d) Between January 1, 1981 and December 31, 1996, you applied or tried to apply to the USDA for participation in a federal farm credit or benefit program(s) and believe that you were discriminated against on the basis of race in the USDA's response;
- e) You experienced one of the following :
  - Were denied participation in a federal farm credit or benefit program(s); or
  - Participation was provided late, approved for a lesser amount than you requested, or burdened by restrictive conditions;
  - Received a loan with unfair terms; or
  - Did not receive appropriate loan service from the USDA;
- f) You suffered economic loss as a result of the USDA's treatment of your application(s) for participation in a federal farm credit or benefit program(s) or as a result of inappropriate loan service by USDA; **and**

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- g) You complained of discrimination to an official of the United States Government on or before July 1, 1997 regarding USDA’s treatment of you.

If you are the heir or legal representative of someone who died who fits this description, you may file a claim for payment that would become part of the deceased person’s estate.

## AWARDS UNDER THE SETTLEMENT

### 10. What does the Settlement provide?

Congress has provided \$1.25 billion to settle this lawsuit. This money is called the Settlement Fund. After deducting certain amounts, including the costs of administering this Settlement and attorneys’ fees and expenses (*see* Questions 21 and 22), the remaining Settlement Fund will be distributed to Class Members whose claims are approved by a Court-appointed Neutral (*see* Questions 13). In addition to cash payments, the Settlement will also provide reductions or forgiveness of USDA loans for certain Class Members who qualify.

A complete description of what the Settlement provides is in the Settlement Agreement. You can get a copy of the Settlement Agreement by visiting [www.BlackFarmerCase.com](http://www.BlackFarmerCase.com), or by calling toll-free, 1-877-810-8110.

### 11. How much will I be paid?

The actual payments for successful claims cannot be determined yet. The amount of money people who file successful claims are eligible to receive will depend on whether they file a claim under Track A or Track B. The actual amount any Class Member will receive will also depend on how many successful claims there are.

**Track A** – Establishes an expedited claims process that will provide people who file successful claims with a cash payment of up to \$50,000, plus a payment to be applied to debt owed (if any) to USDA, plus a tax payment worth 25% of that person’s cash and loan awards (*see* Question 12).

**Track B** – Establishes a more rigorous claims process that will allow people who file successful claims an opportunity to receive actual damages up to \$250,000 (*see* Question 12).

It is important to note that Congress has approved a limited amount of money for this Settlement. Additionally, there is an overall limit of \$100 million to pay Track B claims. Therefore, the cash payments that Class Members will receive could be significantly less than \$50,000 for successful Track A claims and significantly less than \$250,000 for successful Track B claims.

This chart summarizes what benefits are available for claims under Track A and Track B:

BENEFIT	TRACK A	TRACK B
<b>Cash payment</b>	Up to \$50,000 (although your actual amount could be significantly lower)	Up to \$250,000 (although your actual amount could be significantly lower)

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<b>Payment to IRS for taxes owed on cash payment</b>	Up to \$12,500 (although your actual amount could be significantly lower)	Not available
<b>Loan reduction or forgiveness payment to USDA for outstanding farm loans</b>	Depends on your claim and what loans you still owe money on	Not available
<b>Payment to IRS for taxes owed as a result of USDA loan reduction or forgiveness payment</b>	25% of your loan reduction or forgiveness payment	Not available

Money to reduce or discharge outstanding USDA loans will be sent directly to the USDA.

Late-Late Filers could receive lower payments than Late Filers. Late-Late Filers may receive only 70% of what Late Filers receive unless there is enough money in the Settlement to pay all Late-Filers in full. If there *is* enough money to pay all Late Filers in full, then Late-Late Filers could receive more than 70% of what Late Filers receive.

## **12. What is the difference between the Track A and Track B claims processes?**

If you believe you suffered economic loss greater than \$50,000 you may choose to submit your claim under “Track B.” In order to be successful under Track B, you will be required to show, with supporting documents, that:

- You experienced discrimination in a USDA loan or benefit program at any time between January 1, 1981 and December 31, 1996 (meaning you meet all the criteria listed in Question 9 above);
- The treatment of your loan application(s) by USDA was less favorable than application(s) filed by a white farmer under similar circumstances (for this element, your supporting document may be a statement signed under oath by a non-family member who has personal knowledge of that less favorable treatment); **and**
- You complained between January 1, 1981 and July 1, 1997 to the USDA or other U.S. Government official about the discrimination (for this element, your supporting document may be a statement signed under oath by a non-family member who has personal knowledge that you complained).

The standard of proof for Track B claims is a higher standard than the one that will be applied to Track A claims. This standard requires that you submit documents to support your claim. **If you choose to submit a Track B claim and are not successful, you will not be able to receive a Track A payment or loan reduction or forgiveness.**

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### **13. Who will decide whether I am eligible for an award?**

After you have submitted a Claim Form, it will be reviewed by the Court-approved Claims Administrator to determine if you are a Class Member and whether all of the required information has been provided. If the Claims Administrator determines that the Claim Form is complete and you are a Class Member, the Claim Form will be sent to a Court-appointed neutral person (“Neutral”). That Neutral will review your Claim Form and other evidence you submit and decide whether you have met the requirements for an award under the Settlement. The decision of the Neutral will be final and binding. You cannot appeal the Neutral’s decisions.

### **14. What USDA loans are eligible for reduction or forgiveness?**

You will be eligible for loan reductions or forgiveness only if the Neutral determines that you are eligible for a Track A cash payment. Only those loans in programs that form the basis for your successful Track A claim are eligible for reduction or forgiveness. More information about what USDA loans are eligible can be found in Section V of the Settlement Agreement. Your lawyer will help you determine which of your loans are eligible, if any.

People who file Track B claims are not eligible for any loan reductions or forgiveness (*see* Question 11).

### **15. Can I get another farm loan if I get a loan reduced or forgiven?**

Yes. Even if you have loans reduced or forgiven, you will be eligible to be considered for new loans from the USDA.

### **16. What happens if the Court does not approve the Settlement?**

If the Court does not approve the Settlement, then it will not become effective and the lawsuit will not move forward as a class action. Instead, you will have to proceed with your own claim separately in the federal court in Washington, DC. If that happens, the amount available to pay **all** successful claims will be limited to \$100 million. The Court will announce its decision approving or rejecting the proposed Settlement after the Fairness Hearing (*see* Question 26).

## **THE LAWYERS REPRESENTING YOU AND HOW TO FILE A CLAIM**

### **17. How do I become eligible to receive a payment?**

In order to be eligible to receive an award under the Settlement, you will need to file a Claim Form with the Claims Administrator within 180 days after the Court finally approves the Settlement. That date is not yet set, but could be as early as **February 28, 2012**. If your Claim Form is received after that date, it will not be reviewed and you will not receive any award. You should start the process of filing a claim as soon as possible.

In order to begin the claims process, you should call the Claims Administrator at 1-877-810-8110. A representative will take certain information from you and provide you with information about speaking with a lawyer (Class Counsel, as described in Question 19) for help with completing the Claim Form. If

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you choose to do so, you may get a Claim Form on your own and complete it by yourself or with the help of your own attorney. You can get a Claim Form by:

- Calling: 1-877-810-8110
- Visiting: [www.BlackFarmerCase.com](http://www.BlackFarmerCase.com)
- Writing: Claims Administrator  
PO Box 4028  
Portland, OR 97208-4028

**18. Do I have to hire a lawyer to help me fill out the Claim Form?**

No, but it is strongly recommended that you consult a lawyer to help you complete your Claim Form. The Court has appointed lawyers to be available to assist you, at no “out-of-pocket” cost to you (*see* Question 19). You may also hire your own lawyer (*see* Question 20). If a lawyer helps you complete your Claim Form, he or she will need to sign the Claim Form before it is submitted to the Claims Administrator.

**19. Do I have a lawyer in the case?**

Yes. The Court has appointed a group of lawyers to serve as “Class Counsel” to represent you and other Class Members. The Court has appointed the following lawyers as “Lead Class Counsel”:

Andrew H. Marks, Esq. CROWELL & MORING LLP 1001 Pennsylvania Avenue NW Washington DC 20004	Henry Sanders, Esq. CHESTNUT, SANDERS, SANDERS, PETTAWAY & CAMPBELL, LLC One Union Street Selma, AL 36702	Gregorio A. Francis, Esq. MORGAN & MORGAN, P.A. 20 North Orange Avenue, Suite 1600 Orlando, FL 32801
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A complete list of all Class Counsel is available from the Claims Administrator or at [www.BlackFarmerCase.com](http://www.BlackFarmerCase.com). You may contact any of the Class Counsel by calling the Claims Administrator at 1-877-810-8110. The Claims Administrator will direct your call to the appropriate person.

You do not need to pay any of your own money, or any part of money you receive from the Settlement, to have Class Counsel represent you. Class Counsel will be paid for their work on your behalf from the funds being provided in this Settlement (*see* Question 21). Class Counsel will assist you in filling out and filing the Claim Form with the Claims Administrator **at no out-of-pocket charge to you**, as well as answer any questions you may have about the Settlement.

**Do not be pressured into paying money for help in completing a Claim Form!** The Court has already appointed Class Counsel to assist you at no out-of-pocket cost to you. If you do not want Class Counsel to assist you, you may hire your own lawyer, but that lawyer must agree to be paid a limited amount from the Settlement money you receive (*see* Question 22).

## **20. May I talk to Class Counsel in person about the Settlement and my claim?**

Yes. The Claims Administrator will provide your contact information to Class Counsel, who will contact you. You also may contact Class Counsel on your own at 1-877-810-8110. Additionally, Class Counsel will hold numerous meetings throughout the country to help Class Members fill out Claim Forms. If you are unable to attend one of these meetings and meet with Class Counsel, you are encouraged to contact Class Counsel for help in completing the Claim Form.

## **21. How will Class Counsel be paid?**

Class Counsel will ask the Court for attorneys' fees and expenses of between 4.1% and 7.4% of the Settlement Fund. The request for attorneys' fees and expenses will be submitted to the Court before the Court's Fairness Hearing (*see* Question 26), and will be posted on [www.BlackFarmerCase.com](http://www.BlackFarmerCase.com). The Court must approve any requests for fees and expenses.

## **22. May I use my own lawyer instead of Class Counsel?**

Yes. However, the Court has decided that prior fee agreements or contracts you may have signed are no longer binding. If you still want to be represented by your own lawyer, you may hire one at your own expense. That lawyer must agree in writing to follow the Court's orders in this case.

If you hire your own lawyer, that lawyer's fee will be subtracted by the Claims Administrator from the amount you receive from the Settlement. There are limits on what that fee may be:

- If you hire your own lawyer to file a Track A claim, the lawyer may not require you to pay him or her more than 2% of the money you receive under the Settlement as the lawyer's fee.
- If you hire your own lawyer to file a Track B claim, the lawyer may not require you to pay more than 8% of the money you receive under the Settlement as the lawyer's fee.

## **23. When will I get my payment?**

No payments will be made until all claims have been decided. That means that it could be two years or perhaps even longer before Class Members who submit valid claims will receive any payments.

## **24. Am I giving up any rights under the Settlement?**

Yes. If the Court gives final approval to the Settlement, whether or not you file a claim, you will not be able to sue or continue to sue the USDA for the discrimination claims being resolved by this Settlement.

The specific claims you are giving up are described in Section XIII of the Settlement Agreement. The Settlement Agreement specifically describes the released claims, so read it carefully. If you have any questions you can talk to the law firms listed in Question 19 for free or you can talk to your own lawyer at your own expense.

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## OBJECTING TO THE SETTLEMENT

### 25. How do I tell the Court if I don't like the Settlement?

If you are a Class Member you can tell the Court that you do not like the Settlement or some part of it. This is called “objecting to the Settlement.” For example, you can say that you don't think the Settlement is fair or adequate, or that you object to the amount of the attorneys' fees and expenses. The Court will consider your views, but may approve the Settlement anyway.

To object, you or your lawyer must send a letter that contains all of the following:

- A statement explaining the basis for your belief that you are a Class Member and eligible for an award under the Settlement;
- A statement of each objection you have and the basis for those objections;
- A description of any law or case supporting the objections;
- A statement of whether you or your lawyer wish to appear at the Fairness Hearing to talk about your objections, and, if so, how long you will need to present your objections; and
- Copies of any documents you or your lawyer will present at the Fairness Hearing.

Your Objection letter should include the name and title of the lawsuit, *In re Black Farmers Discrimination Litigation*, No. 08-mc-0511. Your Objection letter must **both** be filed with the Court and received by Lead Class Counsel and Counsel for USDA by **August 12, 2011**. The addresses are:

CLERK OF THE COURT	LEAD CLASS COUNSEL	DEPARTMENT OF JUSTICE (COUNSEL FOR USDA)
Clerk of the Court United States District Court District of Columbia 333 Constitution Avenue NW Washington, DC 20001 ATTN: Chambers of the Honorable Paul L. Friedman	Andrew H. Marks, Esq. Crowell & Moring LLP 1001 Pennsylvania Avenue NW Washington DC 20004  Henry Sanders, Esq. Chestnut, Sanders, Sanders, Pettaway & Campbell, LLC One Union Street Selma, AL 36702  Gregorio A. Francis, Esq. Morgan & Morgan, P.A. 20 North Orange Avenue, Suite 1600 Orlando, FL 32801	Michael Sitcov, Esq. Tamra T. Moore, Esq. Tamara Ulrich, Esq. U.S. Department of Justice Federal Programs Branch Civil Division 20 Massachusetts Avenue, NW, Room 6134 Washington, DC 20001

Objection letters can also be filed electronically if the filing is done by your attorney. This is called electronic case filing or “ECF.” If your lawyer files your Objection electronically, you do not need to send additional copies of it to Lead Class Counsel and Counsel for USDA since they will receive copies

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automatically.

Your lawyer may obtain a copy of the Orders containing these additional requirements at [www.BlackFarmerCase.com](http://www.BlackFarmerCase.com) or by calling 1-877-810-8110.

Any objection that does not meet these requirements may be rejected by the Court.

## THE COURT'S FAIRNESS HEARING

### 26. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing at 9:30 a.m. on **September 1, 2011** at the United States District Court for the District of Columbia, United States Courthouse, 333 Constitution Avenue NW, Washington, DC 20001. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court also will consider any objections and Class Counsel's request for attorneys' fees and expenses. After the Fairness Hearing, the Court will decide whether to approve the Settlement and the range of fees and expenses it will award to Class Counsel out of the Settlement Fund.

### 27. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense. If you send in a written objection, you do not have to come to the Fairness Hearing to talk about it. As long as your objection meets the requirements discussed above, the Court will consider it. You also may pay your own lawyer to attend the Fairness Hearing, but that is not necessary.

### 28. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Fairness Hearing. You may also hire an attorney to speak for you. If you (or your lawyer) want to speak at the hearing you must give the Court a paper that is called a "Notice of Appearance." The Notice of Appearance should say that you intend to speak at the hearing in *In re Black Farmers Discrimination Litigation*, No. 08-mc-0511. Your Notice of Appearance must be filed with the Court and received by Lead Class Counsel and Counsel for USDA by **August 12, 2011**. The addresses for the Court, Lead Class Counsel, and Counsel for USDA are listed in Question 25. If your lawyer files your Notice of Appearance electronically (*see* Question 25), you do not need to send additional copies of it to Lead Class Counsel and Counsel for USDA since they will receive copies automatically.

## IF YOU DO NOTHING

### 29. What happens if I do nothing at all?

If you do nothing, you will not get any money or loan forgiveness from the Settlement. You must submit a Claim Form to get a payment. If the Court approves the Settlement, you will give up your right to sue the USDA about the discrimination claims being resolved by this Settlement.

## GETTING MORE INFORMATION

### 30. How do I get more information about the Settlement?

This Notice summarizes the Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at [www.BlackFarmerCase.com](http://www.BlackFarmerCase.com) or by contacting the Claims Administrator.

### Claims Administrator Contact Information

**Call:** 1-877-810-8110

**Visit:** [www.BlackFarmerCase.com](http://www.BlackFarmerCase.com)

**Write:**

Claims Administrator  
PO Box 4028  
Portland, OR 97208-4028

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