

Original sponsor: Rules Committee by request
of the Governor

Offered: 3/15/68
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 672

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act to provide for state contribution and action
7 to encourage and facilitate final settlement of
8 Alaska native land claims by the federal government,
9 and providing for an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. DECLARATION OF INTENT. It is the policy of the State of
12 Alaska to join with the federal government in a legislative effort to recog-
13 nize, validate and confirm the just land claims of Alaska natives and to
14 provide a fair, speedy and equitable method for their determination, set-
15 tlement and satisfaction. It is the position of the state that in ac-
16 complishing this purpose it is in the public interest to minimize procedural
17 delays, remove technical obstacles, to create a public body composed of
18 residents of Alaska with power to process, determine, and expedite the
19 claims and to perform other functions to carry out the provisions of this
20 Act. In order to facilitate and encourage a fair settlement of these land
21 claims between the Alaska natives and the federal government, it is con-
22 sidered in the best interest of the state to make a reasonable contribution
23 to the settlement on the part of the state, by providing that certain
24 royalties or shares of the proceeds derived from state and federal lands be
25 made available to native groups in Alaska as compensation for relinquish-
26 ment of part of their claims based on aboriginal use and occupancy of lands
27 in Alaska, and thereby to settle with finality all such land claims of
28 Alaska natives insofar as the State of Alaska is concerned.

29 * Sec. 2. AS 38 is amended by adding a new chapter to read:

CSHB 672

1 CHAPTER 30. ALASKA NATIVE CLAIMS STATE SETTLEMENT ACT OF 1968.

2 ARTICLE 1. ALASKA NATIVE COMMISSION.

3 Sec. 38.30.010. ACCEPTANCE OF FEDERAL COMMISSION. (a) If
4 legislation is enacted by the United States before April 15, 1969,
5 whereby a commission is created substantially like, and capable of
6 performing the functions of, the Alaska Native Commission set out in
7 this chapter, the state does hereby designate and constitute the
8 commission as the agency for carrying out the Alaska Native Commission
9 purposes and functions set out in this chapter.

10 (b) Upon the enactment before April 15, 1969, of federal legisla-
11 tion creating such a commission, the governor shall determine whether
12 it is substantially like, and capable of performing the functions of,
13 the commission as set out in this chapter. If the governor determines
14 in the affirmative, he shall certify and make public his determina-
15 tion, whereupon the federally created commission shall become the agency
16 to perform the functions set out in this chapter, and the commission
17 provided for in secs. 30 - 130 of this chapter shall not come into
18 existence. If the governor determines in the negative, secs. 30 - 130
19 of this chapter become operable immediately.

20 (c) If no legislation has been enacted by Congress by April 15,
21 1969, creating a commission to act in the matter of Alaska native land
22 claims, secs. 30 - 130 of this chapter become operable immediately.

23 Sec. 38.30.020. CRITERIA FOR DETERMINING ACCEPTABILITY OF FEDERAL
24 COMMISSION. In making the determination under sec. 10 of this chapter
25 the governor shall be guided by the following minimum standards of
26 acceptability of a federal commission to discharge the functions set
27 out in this chapter:

28 (1) it must provide that the State of Alaska may vest power
29 in the commission;

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- (2) it must provide for staggered terms of office;
- (3) it must provide that at least a majority of its members be Alaska natives as defined in this chapter;
- (4) the Alaska residence requirements for members of the commission must be substantially the same as those prescribed in sec. 30 of this chapter;
- (5) the scope of judicial review of actions and final determinations of the commission must be at least as ample as that set out in sec. 130 of this chapter;
- (6) it must be empowered to make final determinations of the matters committed to it by this chapter, where this chapter requires final determinations.

Sec. 38.30.030. CREATION OF STATE COMMISSION. There is created an Alaska Native Commission to exercise the duties and powers conferred upon it by this chapter. The commission shall be considered as the head of a regulatory and quasi-judicial agency of the state. The commission consists of seven members, appointed by the governor and confirmed by a majority of the members of the legislature in joint session. At least five members shall be Alaska natives as defined in this chapter. Each member of the commission shall have been a resident of Alaska continuously for at least five years before his appointment and must remain a resident during his term of office. In appointing members of the commission due regard shall be given to obtaining fair geographic and ethnic representation.

Sec. 38.30.040. TERMS OF OFFICE. The members initially appointed by the governor shall be given terms of office of one, two, three, four, five, six and seven years respectively, the terms to commence upon the day the sections of this chapter concerning an Alaska Native Commission become operable. Their successors shall be appointed

1 for terms of seven years by the governor in the same manner and subject
2 to the same qualifications as the initial appointments, except that a
3 person chosen to fill a vacancy shall be appointed only for the unex-
4 pired term of the member whom he succeeds. Upon the expiration of his
5 term of office a member shall continue to serve until his successor
6 has been appointed and is qualified to take office. The members of
7 the commission shall choose a chairman from the commission's member-
8 ship. Any commissioner may be removed by the governor for inefficiency
9 neglect of duty, malfeasance in office, or engaging in conduct which
10 violates any conflict of interest laws of the state.

11 Sec. 38.30.050. COMPENSATION. The commissioners shall be paid
12 compensation in the sum of \$50 for each day in which they are engaged
13 in the performance of their official duties. They shall also be
14 reimbursed for expenses which have been authorized by the commission.

15 Sec. 38.30.060. NOMINATIONS. Any organization recognized by the
16 Secretary of the Interior (or if there be none recognized by him, by
17 the governor) to speak for the Alaska natives on a statewide basis
18 and the statewide native corporation shall each be given the opportunity
19 to recommend prospective appointees to the commission, but the governor
20 is not limited by the recommendations in his exercise of appointive
21 power.

22 Sec. 38.30.070. LOCATION. The commission shall have its offices
23 and hold its meetings in the state at a place to be determined by the
24 commission.

25 Sec. 38.30.080. EMPLOYEES AND EXPENSES. The commission may
26 employ and fix the compensation of an executive director, subject to
27 the approval of the governor as to the appointment. The commission
28 may employ and fix the compensation of attorneys, special experts,
29 examiners, clerks, and other employees, and may incur expenses and

1 disburse funds it may find necessary for the proper performance of its
2 duties, subject to appropriations for these purposes made by the
3 legislature. The commission shall be subject to examination by the
4 Legislative Audit Committee.

5 Sec. 38.30.090. PROCEDURE. The commission shall have power to
6 establish its own rules of procedure, and the time and place of its
7 meetings. The commission shall not be subject to the Alaska Adminis-
8 trative Procedure Act (AS 44.62) as to functions of an adjudicatory
9 nature. A quorum consists of four members.

10 Sec. 38.30.100. JURISDICTION AND POWERS. (a) The commission
11 shall have jurisdiction to determine and settle Alaska native land
12 claims, subject to the provisions of this chapter. The commission
13 may also accept and carry out functions delegated to it by the Secre-
14 tary of the Interior, such as the preparation of official rolls of
15 native groups, providing that the acceptance of the delegated function
16 does not increase the expense of commission operations which would
17 otherwise be entailed under the appropriations made by the legislature.

18 (b) The commission may

19 (1) determine, when necessary to the administration of
20 this chapter, the aboriginal use and occupancy of Alaska lands by
21 native groups, the geographical extent thereof, and the boundaries of
22 occupancy attaching to villages and regions;

23 (2) determine the number and location of the groups to be
24 recognized officially by the commission;

25 (3) prepare an official roster of groups of natives
26 eligible to receive the benefits granted by this chapter and by the
27 laws of Alaska;

28 (4) investigate all matters which are the proper subjects
29 of its action, with the power to call upon any of the departments of

1 the state government for information it considers necessary to perform
2 its duties and functions;

3 (5) make other determinations in respect of Alaska native
4 land claims which are fair and equitable in carrying out the purposes
5 of this chapter; and

6 (6) have other powers which may be provided by law.

7 (c) The commission shall give reasonable notice to the interested
8 parties before it and an opportunity to be heard before making a final
9 determination on any disputed matter.

10 Sec. 38.30.110. TESTIMONY OF WITNESSES. A member or employee
11 of the commission, designated in writing by the chairman for that
12 purpose, may administer oaths and examine witnesses. The chairman of
13 the commission, or in his absence, the vice chairman, may in the same
14 manner as a party to litigation, but without costs, apply to the superior
15 court for issuance of subpoenas requiring (1) the attendance and
16 testimony of witnesses and the production of all necessary books, papers,
17 documents, correspondence, and any other evidence from any place in
18 the state at any designated place of hearing within Alaska, or (2) the
19 taking of depositions before a designated individual who is authorized
20 to administer oaths under the laws of Alaska or any other state. In
21 taking testimony, opportunity is to be given for attendance and
22 examination of the witness by any party who might be adversely affected
23 by the commission's actions.

24 Sec. 38.30.120. FINAL DETERMINATIONS. The final determinations
25 of the commission in any matter which is disputed before it and in any
26 matter which will be irrevocably binding upon the persons affected,
27 shall be in writing, filed with the commission, and shall set forth
28 the operative facts upon which its determination is based, the reasons
29 in support of its determination, and a definite statement of the

1 determination that is made by the commission.

2 Sec. 38.30.130. JUDICIAL REVIEW. (a) The actions and final
3 determinations of the commission may be reviewed at the instance of a
4 person adversely affected by commission actions or determinations, by
5 a petition for review filed in the superior court. In considering
6 a petition for review the court shall be limited to considering and
7 deciding only the following questions:

8 (1) whether any specific provision of this chapter, the
9 Constitution of the United States, or the Constitution of the State of
10 Alaska has been violated;

11 (2) whether the commission acted capriciously or arbi-
12 trarily;

13 (3) whether there is information, published or written
14 material, evidence, or other data within the record to sustain the
15 findings, recommendations, decisions, or actions of the commission
16 as being reasonable.

17 (b) The court may remand the matter reviewed for further pro-
18 ceedings as are required under this chapter and may grant other ap-
19 propriate judicial relief.

20 ARTICLE 2. ROYALTY.

21 Sec. 38.30.140. RIGHT TO PROCEEDS. (a) The natives of Alaska
22 are hereby granted the right to a royalty and share of five per cent
23 of the proceeds made subject to this chapter under sec. 160 hereof,
24 but only if within six months after the effective date of this chapter
25 the present land freeze imposed by the United States Department of
26 the Interior (as defined in (c) of this section) is unconditionally
27 removed and terminated.

28 (b) In the event the land freeze is removed in accordance
29 with (a) of this section but is subsequently reimposed, the Alaska

1 natives' right to proceeds under (a) of this section shall terminate.

2 (c) The phrase "land freeze" as used in this section means the
3 failure or refusal on the part of the United States Department of
4 the Interior to dispose of public lands in Alaska under the Public
5 Land Laws of the United States, including without limitation the Alaska
6 Statehood Act (72 Stat. 339), because of the pendency of native land
7 claims or protests, but excluding any temporary withdrawal (for a
8 period not to exceed six months after the effective date of the Federal
9 Native Land Claim Act of 1968) which may hereafter be made to protect
10 priority of selection of any lands which may hereafter be granted by
11 the United States to native land claimants in settlement of their
12 claim, but not to exceed in the aggregate the total acreage so granted.

13 Sec. 38.30.150. PROPERTY INTEREST. The royalty or share of pro-
14 ceeds granted in this chapter is intended to be an irrevocable grant,
15 and the right of Alaska natives to the same vests on the day this
16 chapter becomes law, subject only to this chapter.

17 Sec. 38.30.160. ROYALTY SOURCES. The proceeds subject to this
18 chapter are all monetary revenues received by the state, after the
19 effective date of this chapter, from the sale, lease, exchange, or
20 other disposal of lands which are selected hereafter by the state under
21 sec. 6(a) and (b) of the Alaska Statehood Act (72 Stat. 339), as
22 amended, and of tidelands and submerged lands owned by the state under
23 the grant contained in sec. 6(m) of the Alaska Statehood Act, as well
24 as all revenues received as the state's share of revenues from public
25 lands under sec. 28 of the Alaska Statehood Act. The right to such
26 proceeds does not apply to (1) revenues from lands the fee simple title
27 to which has been conveyed by the state to other persons before the
28 effective date of this chapter; (2) revenue from tidelands and sub-
29 merged lands which are or have been conveyed to others under AS 38.05.320

1 (3) revenues from lands which (A) have been temporarily approved by
2 the United States government for selection by the state, and (B) in
3 which the state has granted to third parties a right or interest prior
4 to the effective date of this chapter.

5 Sec. 38.30.170. DISTRIBUTION OF PROCEEDS. (a) The royalty or
6 share of proceeds granted under sec. 140 of this chapter shall be
7 distributed to three classes of recipients: (1) 75 per cent to
8 incorporated native groups; (2) 20 per cent to regional native corpora-
9 tions; and (3) five per cent to the statewide native corporation. The
10 apportionment of the royalty shall be based upon the number of persons
11 on the final rolls and distribution shall be made under rules and regu-
12 lations adopted by the commission.

13 (b) Seventy-five per cent of the total proceeds distributed under
14 (a) of this section to each native corporation shall be used for
15 public works, capital improvements, community projects, or other
16 public purposes to be selected by the recipient native corporations.

17 (c) All expenditures for public works, capital improvements,
18 community projects, or other public purposes shall be annually reported
19 to the Rural Affairs Commission in the office of the governor.

20 (d) The money apportioned to each corporation shall be used in
21 accordance with the annual budgets prepared by the corporation, sub-
22 mitted to and not disapproved by the commission.

23 Sec. 38.30.180. TEMPORARY TRUST. Until the commencement of
24 corporate existence of any recipient corporation, the royalty shares
25 for such entities shall be held in trust by the state. Immediately
26 upon the commencement of corporate existence of any such corporation, the
27 state shall pay over to the corporation its ascertainable share of the
28 royalty. Like payments shall be made at intervals of not less than
29 once each calendar year thereafter.

1 **ARTICLE 3. INCORPORATION OF NATIVE GROUPS.**

2 **Sec. 38.30.190. CERTIFICATE OF INCORPORATION.** Under rules and
3 regulations which the Alaska Native Commission may prescribe, each
4 native group, regional native corporation, and the statewide native
5 corporation entitled to benefits under this chapter or the Federal
6 Alaska Native Claims Act of 1968 shall incorporate under the Alaska
7 Business Corporation Act, as modified by this chapter and said rules
8 and regulations, except those native groups which elect to incorporate
9 or remain incorporated under the Indian Reorganization Act. Until 100
10 years after the effective date of this chapter the articles of incorpo-
11 ration and all amendments shall be subject to the approval of the
12 commission.

13 **Sec. 38.30.200. MEMBERSHIP AND STOCK.** (a) All natives enrolled
14 on the rolls of the native group incorporated or to be incorporated
15 under the Federal Alaska Native Claims Act of 1968 shall be the initial
16 members and shareholders of the incorporated native group. Each
17 membership shall be represented by 100 shares of the capital stock of
18 the corporation, of no par value, which shall be issued to each
19 member.

20 (b) Shares of stock shall be inalienable from the first holder
21 of the shares, by operation of law or otherwise, except upon his death
22 when the shares shall pass by devise or inheritance free of any claims
23 against the estate. When ownership of shares passes by devise or
24 inheritance, such shares shall be partitioned, so far as may be
25 practicable, in whole shares among those entitled to them. The
26 corporation shall retire by purchase any shares in which fractional
27 interests valued at less than \$100 exist.

28 (c) The second holder of shares of stock must be or be descended
29 from at least one of the first members of the incorporated

1 native group, and, after 25 years from the effective date of this
2 chapter subsequent holders need only be or be descended from at least
3 one of the first members of any native group incorporated under
4 sec. 190 until 100 years after the effective date of this chapter.
5 Thereafter, the stock shall be freely alienable, provided that the
6 corporation may adopt any provision restricting stock ownership per-
7 mitted ordinary business corporations.

8 (d) A person not entitled to hold stock may lawfully acquire
9 stock by devise or inheritance, in which event the corporation shall
10 purchase the stock at its fair value.

11 Sec. 38.30.210. VOTING RIGHTS. All shares shall carry voting
12 rights and cumulative voting is required. Stock held by a minor may
13 be voted by his parent or guardian.

14 Sec. 38.30.220. PURPOSE. (a) The corporations may carry on any
15 lawful business permitted by the Alaska Business Corporation Act in
16 Alaska, and, with the consent of the commission, outside of Alaska.
17 All investments in securities shall be in accordance with an invest-
18 ment program which makes provisions for skilled investment counsel.

19 (b) To the extent permitted by its articles and bylaws, the
20 corporation may make distributions from earned surplus or capital as
21 gifts, grants or loans to shareholders, descendants of the first
22 holders of the shares of the corporation and to persons of at least
23 one-sixteenth native blood who would have been eligible for membership
24 as a first holder but for the lack of sufficient blood quantum and who
25 are enrolled by the corporation upon a special roll, provided that no
26 gifts or grants shall be made after 50 years from the effective date
27 of this chapter. The corporation may at any time make charitable,
28 educational and other donations as allowed by the Alaska Business
29 Corporation Act.

1 (c) The regional corporations may make distributions from earned
2 surplus or capital as grants or loans to native group corporations
3 of the region of such regional corporation and to municipal corpora-
4 tions and native villages within the region.

5 (d) The statewide corporation may make distributions from
6 earned surplus or capital as grants or loans to regional corporations
7 or native group corporations.

8 Sec. 38.30.230. CAPITAL. The capital of the corporation shall
9 consist of the land conveyed to the corporation by the United States
10 under the Federal Alaska Native Claim Act of 1968, entered at its
11 fair market value upon receiving the conveyance therefore, the money
12 received from the royalty in revenues received from the outer conti-
13 nental shelf, and the money received from the royalties in revenues
14 from state lands and in revenues from federal leases received by the
15 state, granted by this chapter.

16 Sec. 38.30.240. CORPORATION NOT A GOVERNMENT INSTRUMENTALITY.
17 A corporation organized under this chapter shall not be an agency or
18 instrumentality of the State of Alaska or of the United States for any
19 purpose, and the state and the United States shall not be responsible
20 for the corporation's actions or debts unless specifically guaranteed
21 or insured.

22 Sec. 38.30.250. RESIDENCE RESTRICTIONS. Residence shall not be
23 restricted, and residence or proposed residence shall not be made a
24 restriction on membership or shareholding, voting of shares, or
25 receipt of benefits from the corporation, provided that distribution
26 of land in kind for townsite lots, fish camp sites, or other
27 aboriginal use may be limited to residents, but continued residence
28 shall not be made a condition of any such distribution of land in
29 kind.

1 Sec. 38.30.260. PROHIBITION ON PER CAPITA DISTRIBUTIONS. The
2 corporation shall not make any per capita distribution, except as
3 permitted by secs. 220(b) and 270 of this chapter. The corporation
4 may declare and pay dividends as any other business corporation.
5 Distributions in partial liquidation or liquidation may be made after
6 100 years after the effective date of this chapter.

7 Sec. 38.30.270. LIMITS ON DISTRIBUTIONS. Distributions under
8 sec. 220(b) of this chapter are subject to the following provisions:

9 (1) eligibility of persons for distributions shall be es-
10 tablished by the articles of incorporation;

11 (2) eligible persons may make applications for gifts, grants
12 or loans to improve their personal conditions under standards prescribed
13 by the bylaws subject to the approval of the Alaska Native Commission;
14 if the purpose of the application is to allow the applicant to move
15 himself or his family from the village or from Alaska, this shall not be
16 a bar to approval of the application; approval is not a bar to a subse-
17 quent application from the same applicant;

18 (3) the corporation shall not distribute more than 160
19 acres to any person, including all persons in his immediate family,
20 and shall not distribute more than 10 per cent of the land it receives
21 under the Federal Alaska Native Claims Act of 1968 in kind to appli-
22 cants; the distribution shall be under standards prescribed by the
23 bylaws subject to the approval of the Alaska Native Commission;

24 (4) the corporation shall not distribute more than 20 per
25 cent of its capital other than land as distributions.

26 Sec. 38.30.280. DISSOLUTION. During the period of 100 years
27 after the effective date of this chapter, any corporation may be dis-
28 solved only if the Alaska Native Commission determines that the dis-
29 solution would be in the best interests of the shareholders.

1 Sec. 38.30.290. MERGER AND CONSOLIDATION. A native group
2 corporation may merge with any other native group corporation, or,
3 together with all other native group corporations of the region,
4 with the appropriate regional native association or corporation.
5 Regional native associations and corporations may merge. All mergers
6 shall be subject to the approval of the Alaska Native Commission,
7 including those occurring before the effective date of this chapter.

8 Sec. 38.30.300. TAXATION. (a) Lands held by a corporation and
9 revenues from these lands shall be taxable to the extent provided by
10 the Federal Alaska Native Claims Act of 1968.

11 (b) Royalties received by the corporation from grants made by
12 the Federal Alaska Native Claims Act of 1968 or this chapter shall not
13 be taxed to the corporation.

14 (c) Dividends paid to shareholders shall be taxable to the share-
15 holder.

16 (d) Distributions during the period distributions are permitted
17 shall not be taxable to the shareholders or other recipients.

18 (e) Liquidation payments shall be taxable, but only to the
19 extent of gain during the period the property was received and held
20 by the commission.

21 Sec. 38.30.310. RULES AND REGULATIONS. The commission may adopt
22 rules and regulations to implement secs. 190 - 300 of this chapter.

23 ARTICLE 4. GENERAL PROVISIONS.

24 Sec. 38.30.320. CONTRACTS WITH THE ALASKA DIVISION OF LANDS. A
25 native group may contract with the state division of lands for the
26 management of lands, provided that no sale, lease, exchange or other
27 disposal of such lands may be made without the approval of the governing
28 body of the native group. The contract may cover all or a portion
29 of the lands of the native group, shall be terminable upon reasonable

1 notice by either party, and shall provide for the terms of management
2 by reference to law or regulation or otherwise. The Department of
3 Natural Resources is authorized to receive and expend, subject to
4 appropriation, funds necessary to carry out its functions under this
5 section.

6 Sec. 38.30.330. EXCHANGE OF LANDS. A native group which would
7 otherwise be entitled to exercise preference right selection of native
8 township grants on lands which however have been selected by and
9 patented to the state may obtain such lands if the same have not been
10 disposed of by exchanging lands of equal value with the state, subject
11 to rules and regulations which may be made by the commission.

12 Sec. 38.30.340. EFFECT OF CHAPTER. This chapter effects a final
13 and complete settlement of all native claims against the state, and
14 the natives of Alaska, by accepting any of the benefits provided in
15 this chapter, shall be considered to have accepted, approved and rati-
16 fied the final settlement and each and every term of the final settle-
17 ment.

18 Sec. 38.30.350. SHORT TITLE. This chapter may be cited as the
19 Alaska Native Claims State Settlement Act of 1968.

20 Sec. 38.30.360. DEFINITIONS. In this chapter

21 (1) "commission" means the Alaska Native Commission estab-
22 lished by this chapter or by federal act, as appropriate;

23 (2) "native" and "Alaska native" means any Alaskan Indian,
24 Eskimo, or Aleut of at least one-fourth degree Indian, Eskimo, or
25 Aleut blood or, in the absence of proof of a minimum blood quantum,
26 who is regarded as native by the native group in which he claims
27 enrollment, and whose father or mother was regarded as native by that
28 or any other native group;

29 (3) "native group" means any tribe, band, village, community

1 association, or other identifiable group of Indians, Aleuts, or Eskimos
2 of Alaska, resident in Alaska, including identifiable groups of resi-
3 dents of a locality which, as such a group, claims Indian title to
4 land in Alaska by virtue of aboriginal use and occupancy at any time;
5 "group" or "native group" may, when appropriate, include not only
6 "native group" but also "regional native association", "regional native
7 corporation" and the "statewide native corporation";

8 (4) "regional native association" means an association of
9 natives or native groups organized to represent the interests of the
10 natives of a region of Alaska which is greater than the area occupied
11 or formerly occupied by an historic native group; the interests of
12 native groups within the region may be merged in the regional associ-
13 ation;

14 (5) "regional native corporation" means a corporation organ-
15 ized under the laws of Alaska and this chapter, representing the
16 interests of the natives of a particular region of Alaska; the interest
17 of native groups within the region may be merged in the regional
18 native corporation;

19 * Sec. 3. This Act takes effect on the day after its passage and
20 approval or on the day it becomes law without approval.
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