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A Call For Real Estate Transfer Tax Reform

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Key Findings and Policy Implications

- Local governments in California depend heavily on regressive sales taxes and inequitably distributed property taxes. They also face steep budget cuts as a result of COVID-19
- San Francisco, Washington state, and various other jurisdictions have recently increased taxes on property sales (real estate transfer taxes), raising additional revenue in a progressive manner
- Transfer taxes in the city of Los Angeles are very low, raising approximately \$212 million per year. In this brief, tax reforms are proposed with graduated, marginal tax rates that would increase annual revenues to \$560 million—\$970 million in a progressive manner
- Multifamily and commercial developments should be exempted from the transfer tax on their first sale, and the city should consider higher transfer tax rates on properties with low effective property tax rates
- A "general tax" transfer tax ballot initiative would require only majority support from voters;
 several similar initiatives in California cities have achieved 60%–70% approval in recent years

Report Motivation

Municipal revenues have been hit hard by the COVID-19-driven economic slowdown, forcing governments to identify new sources of funding or enact steep service cuts. Cuts of approximately \$1 billion for Los Angeles County and up to \$600 million for the city of Los Angeles are anticipated, with further reductions possible as the economic fallout comes into sharper focus. Even prior to the COVID-19 pandemic, California local governments have been restricted in their options for raising revenue. This has led to an overreliance on regressive sales taxes and an inequitable distribution of property tax burden, among other challenges. Reforms to the real estate transfer tax, which is assessed when properties are sold or otherwise change ownership, are an effective and equitable solution to immediate budget needs, while also supporting important long-term priorities including affordable housing and tenant assistance.

Introduction

All taxes have advantages and disadvantages. Sales taxes are distributed widely, but are volatile and usually regressive. Income taxes in California are highly progressive, but also fluctuate with economic cycles. Fines and fees can be targeted fairly, at those who use specific services and infrastructure the most, but can be discriminatory and extractive (McCoy, 2015). Property taxes are more stable than most other revenue sources and serve as a tax on wealth, not solely income. They can cause problems for "house rich, cash poor" households and disincentivize real estate development, however, which is sorely needed in California's unaffordable housing market.

Compared to other states, California has high income and sales taxes and lower-than-average property taxes. The 1978 passage of Proposition 13 played a major role in this shift, capping property taxes at approximately 1% of assessed property value — down from a statewide average of 2.67% (Taylor, 2016). It also limits the rate at which property taxes increase for property owners, regardless of income or wealth. Property taxes have fallen from 27% of combined state and local tax revenues in 1978 to just 14% in 2015 (Rueben & Auxier, 2018), and California has gone from having one of the best-funded school systems in the country to one of the worst (Penner et al., 2010).

Today, California's statutory property tax rate of 1% places it near the median of U.S. states. The effective property tax rate is much lower for long-time property owners, however, who tend to be older, wealthier, and whiter than the average state resident (Myers, 2009); California's overall effective property tax rate is in the bottom third of U.S. states (Kiernan, 2020). Ideally, we would reverse this trend. Incredible wealth has accumulated over the past several decades to property owners in California, particularly in the Los Angeles region, but the avenues for reform are sharply restricted by Proposition 13. The initiative also instituted a two-thirds voter approval threshold for many tax increases, further limiting revenue options for state and local governments.

Real estate transfer taxes, while not a perfect substitute for property tax reform, can serve a similar purpose while avoiding some political and legal pitfalls. Much of the value of property in California's coastal cities is attributable to land, not improvements, and this value is captured almost entirely by incumbent homeowners. Transfer taxes allow for the recapture of some of this value, which is generated collectively, for public use. They can also be enacted at the county and municipal level, allowing for tailored approaches that suit local conditions.

Real Estate Transfer Taxes

Real estate transfer taxes, known also as documentary transfer taxes or real estate excise taxes, are assessed on the sale value of a property when it changes ownership. These taxes are sometimes designed as a fee rather than a tax. LA County collects a minimal transfer tax of 0.11%, or \$1.10 per \$1,000 of the sale price. Some cities collect transfer taxes on top of the county rate: Los Angeles and Culver City collect 0.45%, Santa Monica assesses a 0.3% rate, and Pomona and Redondo Beach both collect 0.22% (Registrar-Recorder/County Clerk). The total tax rate in the city of Los Angeles, therefore, is 0.56% of the sale price; a home purchased for \$700,000 would owe a transfer tax of \$3,920 at the time of sale. If the same home were subject to sales tax — a tax that poorer residents spend a disproportionate share of their income on — the payment would be closer to \$70,000.

San Francisco is one of a number of California cities that assess higher transfer tax rates than Los Angeles. Further, its tax is graduated, or progressive, meaning that sales of more valuable properties are taxed at higher rates. Properties sold for \$250,000 or below pay a tax rate of 0.5%, with the rate increasing in increments to a maximum of 3.0% for properties worth \$25 million or more (Office of the Assessor-Recorder). San Francisco's six transfer tax rate brackets are shown in **Table 1.**

Table 1.
San Francisco real estate transfer tax rates

Sale price	Tax rate
\$250,000 or below	0.5%
\$250,000.01 to \$999,999	0.68%
\$1 million to \$4,999,999	0.75%
\$5 million to \$9,999,999	2.25%
\$10 million to \$24,999,999	2.75%
\$25 million or above	3.0%

These higher rates have a large impact on revenues. Los Angeles' population is 4.5 times larger than San Francisco's, and the total assessed value of property in the city is more than 2.3 times higher, yet San Francisco collects significantly more transfer tax revenue each year. **Table 2**, below, illustrates the discrepancy between the two cities.

Table 2. Comparison of Los Angeles and San Francisco populations, total assessed property values, and transfer tax revenues

	Population	Assessed value of all property	Transfer tax revenue
Los Angeles	4,013,170	\$653 billion	\$212 million
San Francisco	891,021	\$282 billion	\$368 million
LA:SF Ratio	450%	232%	58%

San Francisco's transfer tax isn't even the most aggressive in the state. Alameda County is home to several cities with flat tax rates of over 1% on all property sales (Alameda, Albany, Emeryville, and Piedmont). Two other cities in Alameda County have graduated transfer taxes: Oakland, which collects a minimum of 1% on property sales and up to 3% on those sold for \$5 million or more, and Berkeley, which charges 1.5% on properties sold for \$1.5 million or less and 2.5% on those sold for over \$1.5 million (CaliforniaCityFinance.com). The price threshold of Berkeley's tax is adjusted annually so that the 2.5% rate will apply to approximately one-third of sales each year (City of Berkeley, 2019). Various other states and cities outside California have transfer taxes or fees of at least 1% of the sale price, including New York City, Delaware, New Hampshire, and Washington, D.C. (National Association of Realtors, 2005).

One flaw in the San Francisco transfer tax is that it imposes flat rates. This means that a property sold for \$4,999,999 pays a tax of 0.75% on the full price, while a property sold for \$5,000,000 pays a rate of 2.25% — three times the tax payment on a property worth only \$1 more. This unnecessarily distorts the real estate market around these threshold points, and can be easily resolved with a marginal tax, as was recently adopted in Washington state.

Approved by the state legislature in 2019, Senate Bill 5998 replaced Washington's flat 1.28% real estate excise tax (REET) with a graduated marginal tax on property sales. The first \$500,000 of value is taxed at 1.1%, a reduction from the previous rate. The next million dollars of value, from \$500,001 to \$1.5 million, is taxed at 1.28%, value between \$1.5 million and \$3 million is taxed at 2.75%, and each dollar over \$3 million is taxed at 3.0% (Department of Revenue). Income taxes at the state and federal level work in the same way, with each subsequent income bracket taxed at a higher marginal rate.

This can be illustrated by a hypothetical property sold for \$750,000. The first \$500,000 of the sale price would be taxed at 1.1%, for a total of \$5,500. The remaining \$250,000 of value would be taxed at 1.28% for an additional \$3,200. The total tax due, therefore, is \$8,700. Washington's property sale price brackets and marginal tax rates are shown in **Table 3**.

Table 3.
Washington state real estate excise tax rates

Sale price bracket	Tax rate
\$500,000 or below	1.1%
\$500,001 to \$1.5 million	1.28%
\$1,500,001 to \$3 million	2.75%
\$3,000,001 or above	3.0%

These new rates mean Washington state properties worth less than \$1.5 million actually pay less transfer tax today than prior to the law change. However, because the rates are much higher for higher-valued properties, statewide REET revenues are expected to grow by approximately \$175 million per year beginning in 2020 (Department of Revenue).

Benefits and Drawbacks of Transfer Taxes

One clear benefit of real estate transfer taxes is their revenue potential, which will be discussed in greater detail in the next section. As noted above, they can also be designed in a progressive fashion, assessing the highest rates on those with the greatest ability to pay.

Transfer taxes are collected only once, at the time of sale, when it's easiest for most property owners to pay. This is in contrast to property taxes, which are collected year-in and year-out, regardless of the owner's ability to pay (with some exceptions, such as low-income or senior exemptions and deferrals). Concerns about "house-rich, cash-poor" households, especially retired homeowners pushed from their homes by rising property taxes, remain a common argument by proponents of Proposition 13 (Howard Jarvis Taxpayers Association, n.d.). Such critiques do not apply to transfer taxes. If a homeowner has no plans to sell their home then they face no additional tax liability. This is likely to increase the political popularity of transfer tax reform relative to property tax reform, with fewer property owners seeing themselves as personally affected.

The concern most likely to be raised about transfer taxes is their impact on home prices — that they will make housing less affordable in an already unaffordable market. This is a weak argument for several reasons. First, it's important to remember that transfer taxes usually amount to a percent or two of sale value, similar to the amount paid in property taxes every year. Second, home prices are not determined by cost to the seller, but by demand; if transaction costs increase slightly, a large portion will likely be absorbed by the seller, who in most cases can draw on tens or

hundreds of thousands (or millions) of dollars of property value appreciation to cover the expense. Third, even if the increased tax is borne in part by buyers, the costs must be weighed against the benefits — as with all taxes and fees. Given the housing affordability crisis, the social and economic benefits of additional funding for renter and low-income housing programs far exceed the costs to the buyers and sellers of property, who by their nature represent a privileged class in Los Angeles.

Some may also argue that transfer taxes will discourage new development, but this should only be true if new buildings are subject to the tax. A later section of this brief recommends that multifamily and commercial developments should be exempt from the tax if sold within several years of completion.

Another concern is that higher transfer taxes may discourage property sales, somewhat limiting household mobility and opportunities for first-time homebuyers: a homeowner might decide not to move due to the additional cost of selling, or to move but retain their property as a rental in order to avoid paying the tax. This concern is almost certainly unwarranted. Purchasing a home already involves considerable transaction costs, including roughly 6% split between buyers' and sellers' agents. An additional 1%–3% tax will likely shift behavior only in the narrowest circumstances. However many home sales would be deterred by higher transfer taxes, if any, the effects are eclipsed by those of Proposition 13, which provides a tax incentive for retaining property that grows stronger each year and is inheritable.

If increased transfer taxes reduce any type of real estate activity it's most likely to be homeflipping, which typically entails two sales in quick succession. To the extent that a transfer tax discourages home-flipping in favor of buyers who intend to immediately occupy their new home, as-is and at a considerably more affordable price, this would be a benefit. And to the extent that home-flipping continued, more revenue would be collected to support affordable housing development, rental assistance, legal representation for tenants, and other important local efforts.

Transfer taxes are cyclical, however — even more so than many other revenue sources. Prior to the Great Recession, sales tax collections for the city of Los Angeles peaked in 2008 and fell by about 18% by 2010. Transfer tax revenues peaked two years earlier, in 2006, and had fallen more than 60% by 2010 (Office of the Mayor, 2010). This decline was probably exceptional because home values were so central to the economic turmoil of that period, but home sales have also slowed during the COVID-19 crisis even though prices have remained relatively stable. That said, volatile public revenues are a common issue and can be addressed with appropriate financial planning. Berkeley has come up with a smart solution to this problem that is discussed below.

Revenue Potential in Los Angeles

Note: The analysis below is for the city of Los Angeles. If you represent another city in LA County and would like a similar analysis performed for your city, please complete the form at the following link and we will seek to fill your request. Please note we are limiting requests to elected officials, government agencies, and non-profit/community-based organizations at this time. Link: https://bit.ly/2OKVTHN

As demonstrated by Bay Area cities and Washington state, there is potential for the city of Los Angeles to raise considerably more revenue from the real estate transfer tax. The exact amount depends on its design — rates, brackets, and exemptions in particular.

To estimate this potential we use data from the County Assessor Sales List, which details all property sales and transfers from the past two years. The Sales List provides the parcel number, building address, use code, parcel zoning, transfer/sale and recording dates, sale price, and other data on the property and buyer(s) involved in each sale. This analysis focused on property sales in the city of Los Angeles for calendar year 2019. We evaluate the transfer tax potential of residential and commercial properties separately: Residential properties are those for which the first digit of the property use code is 0 (zero), and commercial properties are limited to those for which the use code begins with a 1, 2, or 3. Certain uses including movie theaters, gymnasiums, and hospitals are not considered commercial according to this definition. A full list of LA County use codes can be found here: https://bit.ly/2OMdXl9.

Table 4 details the revenue potential of three transfer tax reform scenarios — limited, moderate, and optimal reform. The table provides marginal tax rates, property sale price brackets, and estimated revenues for each scenario, for both residential and commercial properties. In bold are the total revenue estimates with an exemption for multifamily and commercial properties sold in 2019 but built 2015 or later. The final row displays revenue estimates if this exemption were eliminated (which is not recommended, but is provided to estimate its impact).

This analysis assumes that an increased transfer tax would not meaningfully reduce the total volume of property sales. Importantly, the Assessor's Sales List only provides data on the most recent sale of a given property. If a home were bought in 2019, flipped, and resold later in 2019 or 2020, for example, the first sale would not be included in the Sales List, making these estimates somewhat conservative.

Table 4. Three real estate transfer tax reform scenarios with estimated revenue potential for the City of Los Angeles

Portion of property sale price subject to tax rate	Limited	Moderate	Optimal
Less than \$500,000	0.65%	1.0%	1.25%
\$500,000 to \$999,999	1.0%	1.25%	1.5%
\$1 million to \$1,999,999	1.25%	1.75%	2.0%
\$2 million to \$4,999,999	1.5%	2.5%	3.0%
\$5 million to \$24,999,999	2.5%	3.25%	4.0%
\$25 million and above	3.0%	4.0%	5.0%
Revenue from residential sales	\$383 million	\$544 million	\$659 million
Revenue from commercial sales	\$182 million	\$248 million	\$306 million
Total annual revenue	\$565 million	\$792 million	\$965 million
Revenue without exemption on new development	\$593 million	\$828 million	\$1,010 million

Key elements of each scenario, with transfer tax assessments for a hypothetical \$1.5 million property, are described below.

Limited reform: The first \$500,000 of property value is taxed at 0.65%, a slight increase above current rates. This is an acknowledgement that the majority of households in the county and two-thirds of households in the city are renters, such that even the ownership of relatively lowvalue property puts one in a privileged position in Los Angeles. The rate increases to 1.0% for the next \$500,000 in value, climbing to 3.0% for properties valued \$25 million or more. These rates are slightly higher than those found in San Francisco, but still considerably lower than those of various other Bay Area cities and Washington state. Under this scenario, a property sold for \$1.5 million would owe a tax of \$14,500, or 0.97% of total value. This tax structure would raise approximately \$565 million, which is \$353 million more than, or 2.7 times, the amount forecasted in the city's FY 19-20 budget.

Moderate reform: The first \$500,000 of property value is taxed at 1.0%. This rate is still less than the lowest rate in Washington state and several Bay Area cities, and equal to the annual property tax rate in California at the time of sale, before Proposition 13 tax discounts begin to accrue. The rate climbs faster than the limited structure, reaching 2.5% at the \$2 million threshold and 4.0% on any portion of value over \$25 million. Under this scenario, a property sold for \$1.5 million would owe a tax of \$20,000, or 1.33% of total value. This tax structure would raise approximately \$792 million, which is \$580 million more than, or 3.7 times, the amount forecasted in the city's FY 19-20 budget.

Optimal reform: The first \$500,000 of property value is taxed at 1.25%, more than many Bay Area cities but less than Berkeley's and Piedmont's lowest rate. It is similar to Oakland's tax, which assesses 1.0% on properties valued under \$300,000 and 1.5% on properties sold for between \$300,000 and \$2 million, though Oakland's tax is flat rather than marginal. This rate climbs faster than the limited and moderate reform structures, reaching 3.0% at the \$2 million threshold and 5.0% on any portion of value over \$25 million. Under this scenario, a property sold for \$1.5 million would owe a tax of \$23,750, or 1.58% of total value. This tax structure would raise approximately \$965 million, which is \$753 million more than, or 4.6 times, the amount forecasted in the city's FY 19-20 budget.

Table 5 provides examples for several representative property sale prices, displaying the transfer tax payment and effective tax rate under each reform scenario.

Table 5. Transfer tax payment and effective tax rate for different property values under each reform scenario

	Tax payment (Effective tax rate)		
Property sale prices	Limited	Moderate	Optimal
\$400,000	\$2,600 (0.65%)	\$4,000 (1.00%)	\$5,000 (1.25%)
\$800,000	\$6,250 (0.78%)	\$8,750 (1.09%)	\$10,750 (1.34%)
\$1.5 million	\$14,500 (0.97%)	\$20,000 (1.33%)	\$23,750 (1.58%)
\$4 million	\$50,750 (1.27%)	\$78,750 (1.97%)	\$93,750 (2.34%)
\$20 million	\$440,750 (2.20%)	\$591,250 (2.96%)	\$723,750 (3.62%)

Discussion and Recommendations

The city of Los Angeles should reform its transfer tax structure, as should other cities in LA County and across the state. The transfer tax will allow local governments to significantly increase their revenue in a progressive fashion, capturing a small share of the appreciation enjoyed by California's property owners — but not its renters, who make up 45% of households in the state, 55% of LA County, and 64% of the city of Los Angeles — and offsetting some of the inequitable tax subsidies of Proposition 13. Few other local taxes or fees could raise so much revenue in such a progressive manner with such limited negative consequences.

Based on the analysis in the preceding section, the "optimal" reform approach is recommended, which is similar in scope to taxes in Washington state, Berkeley, Oakland, and other Bay Area cities, as well as New York City and numerous smaller cities in Massachusetts, Illinois, and elsewhere. Even for a high-value \$4 million property, the effective transfer tax rate is only 2.34% in this scenario, barely more than double the property tax rate, which is paid annually. The tax should be graduated, with increasing rates as property sale prices rise, and the rates should be applied to the marginal value in each value bracket — not as a flat tax on the entire sale price of the property.

It is strongly recommended that new multifamily and commercial buildings be exempted from the increased transfer tax on their first sale. Without this exemption, the financial feasibility of development will be undermined, reducing the total amount of new housing production and exacerbating the region's housing shortage. This includes affordable units, a large share of which are now produced by for-profit builders via the Transit Oriented Communities program. The exemption period could last as few as three or as many as 10 years, with five years being a reasonable compromise, but only the first sale should be exempted. If a property is sold twice in its first few years after completion, for example, the second sale would be subject to the tax even if the exemption period were 10 years.

While it is recommended to exempt new commercial and multifamily properties from the tax on their first sale, new single-family homes should not be exempted from the transfer tax unless their development results in a net increase in housing units. (Small-lot developments are an example of single-family homes that typically add to net housing.) New single-family homes, especially those on lots 5,000 square feet or larger, are a luxury product in Los Angeles that typically replaces an older, smaller, more affordable single family unit. Among residential properties built 2015 or later and sold in 2019, more than 90% (1,037 out of 1,136) were single-family houses. The median value of these homes was \$1.25 million, and a quarter were sold for over \$2.7 million. Although new singlefamily homes were only 4% of property sales in 2019, they account for nearly 10% of residential transfer tax revenues in all three reform scenarios.

As a result of Proposition 13, effective property tax rates in California vary from as high as 1% for new buyers to lower than 0.2% for long-time owners, with no regard for household income, wealth, or property value appreciation (Taylor, 2016). Increasing the transfer tax on properties with lower effective property tax rates could help offset some of this inequity. To accomplish this, a multiplier could be applied to the tax rates listed in **Table 4**. For example: a 1.0x multiplier for properties with an effective property tax rate above 0.9%; a 1.2x multiplier for property tax rates from 0.80-0.89%, a 1.4x multiplier for rates between 0.70-0.79%, and so on. Using the "moderate reform" transfer tax rates, a property with an effective property tax rate of 0.95% sold for \$1.5 million would pay a transfer tax of \$15,750 (1.0x multiplier), while a similar property with an effective tax rate of 0.65% would pay \$25,200 (1.6x multiplier).

The new revenues could be spent on a variety of important local efforts including low-income housing construction and rehabilitation, supportive housing and shelters, as well as services for unhoused residents, acquisition of land and at-risk rental properties, rental housing assistance including Housing Choice vouchers, and legal representation for tenants facing eviction or slum conditions. They could also be spent on non-housing-related programs, depending on input from policymakers and other stakeholders.

Because of the volatile nature of transfer tax revenues, care must be taken in how they're allocated. After approval of a new progressive transfer tax, Los Angeles should adopt a spending plan similar to the one found in Berkeley. Berkeley collects \$17 million to \$20 million per year from its transfer tax and allocates a flat \$12.5 million per year to its general fund. The remaining funds are treated as one-time revenue and spent on infrastructure capital expenses (City of Berkeley, 2019). Los Angeles needn't limit one-time revenues to capital investments only — the COVID-19 pandemic and economic crisis has highlighted the value of a well-stocked emergency fund, for example but it would be prudent to commit no more than 60%-70% of projected revenues to programs that require ongoing, stable funding.

Enacting Transfer Tax Reform

In California, two-thirds voter approval is required for "special taxes," defined as any tax earmarked for a specific purpose. This includes the LA County sales tax measures Measure M (earmarked for transportation investments) and Measure H (dedicated to services for unhoused residents). General taxes, in contrast, are not earmarked for a specific purpose and can be spent on a wide range of governmental programs, services, and investments. They also require only majority support for approval, so any local initiative to reform the transfer tax should be structured as a general tax. A separate, non-binding initiative stating that funds should be spent on specific purposes might be attached to the proposal, for the purpose of garnering additional political support, but recent ballot results in the Bay Area indicate that this may be unnecessary.

Parcel taxes recently approved in California have been structured as general taxes. This includes four ballot initiatives from the past six years:

Table 6. Recent successful transfer tax ballot initiatives in California

Year	City	Ballot initiative	Percent support
2014	Emeryville	Measure V	59.5%
2016	San Francisco	Proposition W	61.9%
2018	Oakland	Measure X	69.5%
2018	Berkeley	Measure P	72.4%

Santa Monica was the most recent city in LA County to vote on transfer tax reform, with Measure H in 2014. The initiative was more modest than any of the above, yet it failed with only 42.5% of voters in support. This could be a consequence of Santa Monica's disproportionately wealthy and highincome population, but it may have also suffered from relatively poor timing. Although all four Bay Area initiatives achieved majority support easily, including Emeryville's in 2014, support has trended upward even as the initiatives have become more aggressive: Berkeley and Oakland, the most recent Bay Area cities to pass transfer tax reform, now have the highest transfer tax rates of any city in California for sales under \$2 million. As a relatively early adopter of transfer tax reform, Emeryville may have also eased the path for its neighbors in later years. Southern California cities may face a more challenging path to approval than their Bay Area counterparts, but the strong performance and positive trend there is nonetheless promising for local efforts.

Conclusion

The tax structure of local governments in California is deeply regressive, relying heavily on sales taxes and inequitably distributed property taxes. Equalizing property tax assessments would be an ideal solution to this problem, but this option is unfortunately limited by Proposition 13 tax restrictions. Two-thirds voter approval, which can be difficult to reach, is also required for many tax reforms — also a legacy of Proposition 13. A second-best alternative to property tax reform, sharing many of its benefits and requiring only majority approval by voters, is to update the real estate transfer tax with higher and more progressive rates.

The proposed reforms could increase transfer tax revenues to \$560 million to \$970 million per year in the city of Los Angeles from today's annual revenues of approximately \$210 million. With a multiplier applied to properties with larger Proposition 13 tax discounts, the potential revenues could be even higher. Similar revenue increases, adjusted for population and local property values, are possible in cities across Southern California. These new funds could support a variety of efforts that are currently on the chopping block, including many that were underfunded even prior to the COVID-19 pandemic. High-level estimates and considerations have been presented in this brief, and policymakers and advocates are strongly encouraged to explore the potential of transfer tax reform in greater detail.

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