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# HOUSE BILL No. 1314

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 21-7-13-13.5; IC 21-18-12; IC 21-18.5; IC 22-4.1-21; IC 24-5-0.5-3.

**Synopsis:** Proprietary education. Provides that the executive officer of the commission for higher education (commission) may develop procedures for authorizing out-of-state public and not-for-profit degree granting institutions to offer instructional or educational services or training in Indiana. Adds definition of "degree granting". Requires an out-of-state public or not-for-profit degree granting institution seeking to offer instructional or educational services or training in Indiana to receive authorization from the executive officer of the commission to provide instructional or educational services in Indiana. Provides that a person may not do business as a degree-granting institution in Indiana unless: (1) the institution is accredited by an accrediting agency recognized by the United States Department of Education or is seeking and progressing toward accreditation by an accrediting agency recognized by the United States Department of Education; or (2) the institution exclusively offers educational instruction of a clearly religious nature. Transfers rulemaking authority regarding the regulation of postsecondary proprietary institutions from the state workforce innovation council to the department of workforce development. Changes references to "accreditation" to "authorization" in provisions relating to administration of postsecondary credit bearing proprietary institutions. Repeals definition of "accreditation". Adds definition of "authorization". Makes changes to the definition of "postsecondary credit bearing proprietary educational institution". Repeals requirements for the issuance of agent permits. Repeals definition of "agent's permit". Provides that a person who knowingly  
(Continued next page)

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**Effective:** Upon passage.

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January 17, 2013, read first time and referred to Committee on Education.

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Digest Continued

and intentionally makes certain misrepresentations regarding a postsecondary credit bearing proprietary educational institution is subject to action by the attorney general's office for making a deceptive consumer sale. Reduces from \$1,000,000 to \$500,000 the amount of money that must accumulate in the student assurance fund. Makes technical amendments.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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# HOUSE BILL No. 1314



A BILL FOR AN ACT to amend the Indiana Code concerning higher education.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 21-7-13-13.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE UPON PASSAGE]: **Sec. 13.5. "Degree granting"**  
4 **refers to any institution that offers a degree program and offers**  
5 **instructional or educational services or training in Indiana.**  
6 SECTION 2. IC 21-18-12 IS ADDED TO THE INDIANA CODE  
7 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
8 UPON PASSAGE]:  
9 **Chapter 12. Out-of-State Public and Not-for-Profit Institutions**  
10 **Sec. 1. All out-of-state public and not-for-profit degree granting**  
11 **institutions seeking to offer instructional or educational services or**  
12 **training in Indiana, and the instructional or educational services**  
13 **or training programs, including degree programs, offered by these**  
14 **institutions, whether on-site, online, or through any combination**  
15 **of these or other instructional modalities, must be authorized by**



1 **the executive officer of the commission, who may develop**  
 2 **procedures for authorizing such institutions to offer such**  
 3 **instructional programs in Indiana, and who may enter into**  
 4 **interstate reciprocity agreements for this purpose.**

5 SECTION 3. IC 21-18.5-1-5, AS ADDED BY P.L.107-2012,  
 6 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 UPON PASSAGE]: Sec. 5. (a) The Indiana commission on proprietary  
 8 education is abolished on July 1, 2012.

9 (b) Unless otherwise specified in a memorandum of understanding  
 10 described in subsection (e), the following are transferred on July 1,  
 11 2012, from the Indiana commission on proprietary education to the  
 12 commission for higher education established by IC 21-18-2-1:

13 (1) All real and personal property of the Indiana commission on  
 14 proprietary education.

15 (2) All assets and liabilities of the Indiana commission on  
 16 proprietary education.

17 (3) All appropriations to the Indiana commission on proprietary  
 18 education.

19 (c) All powers and duties of the Indiana commission on proprietary  
 20 education before its abolishment pertaining to the accreditation of a  
 21 postsecondary credit bearing proprietary educational institution are  
 22 transferred to the board for proprietary education established by  
 23 IC 21-18.5-5-1.

24 (d) All powers and duties of the Indiana commission on proprietary  
 25 education before its abolishment pertaining to the accreditation of a  
 26 postsecondary proprietary educational institution (as defined in  
 27 IC 22-4.1-21-9) are transferred to the state workforce innovation  
 28 council established by IC 22-4-18.1-3.

29 (e) The commission for higher education established by  
 30 IC 21-18-2-1 may enter into a memorandum of understanding with the  
 31 state workforce innovation council established by IC 22-4-18.1-3 to  
 32 implement the transition of the responsibilities and obligations of the  
 33 Indiana commission on proprietary education before its abolishment to  
 34 the commission for higher education and the state workforce  
 35 innovation council.

36 (f) Rules that were adopted by the Indiana commission on  
 37 proprietary education before July 1, 2012, shall be treated as though the  
 38 rules were adopted by the state workforce innovation council  
 39 established by IC 22-4-18.1-3 until the state workforce innovation  
 40 council **or the department of workforce development** adopts rules  
 41 under IC 4-22-2 to implement IC 22-4.1-21.

42 (g) An accreditation granted or a permit issued under IC 21-17-3 by

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1 the Indiana commission on proprietary education before July 1, 2012,  
 2 shall be treated after June 30, 2012, as an ~~accreditation~~ **authorization**  
 3 granted ~~or a permit issued~~ by the:

4 (1) board for proprietary education established by IC 21-18.5-5-1  
 5 if the accreditation pertains to a postsecondary credit bearing  
 6 proprietary educational institution (as defined in  
 7 IC 21-18.5-2-12); or

8 (2) ~~state workforce innovation council~~ **department of workforce**  
 9 **development** if the accreditation pertains to a postsecondary  
 10 proprietary educational institution (as defined in IC 22-4.1-21-9).

11 **(h) An accreditation granted or a permit issued before May 15,**  
 12 **2013, under IC 21-17-3 (repealed):**

13 **(1) by the board for proprietary education established by**  
 14 **IC 21-18.5-5-1 shall be treated as an authorization granted by**  
 15 **the board for proprietary education; and**

16 **(2) by the state workforce innovation council shall be treated**  
 17 **as an authorization granted by the department of workforce**  
 18 **development.**

19 ~~(h)~~ **(i)** Proceedings pending before the Indiana commission on  
 20 proprietary education on July 1, 2012, shall be transferred from the  
 21 Indiana commission on proprietary education to:

22 (1) the board for proprietary education established by  
 23 IC 21-18.5-5-1 for a proceeding pertaining to a postsecondary  
 24 credit bearing proprietary educational institution (as defined in  
 25 IC 21-18.5-2-12); or

26 (2) the state workforce innovation council if the proceeding  
 27 pertains to a postsecondary proprietary educational institution (as  
 28 defined in IC 22-4.1-21-9).

29 SECTION 4. IC 21-18.5-2-2 IS REPEALED [EFFECTIVE UPON  
 30 PASSAGE]. Sec. 2: "Accreditation", for purposes of IC 21-18.5-6,  
 31 means certification of a status of approval or authorization by the board  
 32 for proprietary education to conduct business as a postsecondary credit  
 33 bearing proprietary educational institution:

34 SECTION 5. IC 21-18.5-2-4 IS REPEALED [EFFECTIVE UPON  
 35 PASSAGE]. Sec. 4: "Agent's permit", for purposes of IC 21-18.5-6,  
 36 means a nontransferable written authorization issued to a person by the  
 37 board for proprietary education to solicit a resident of Indiana to enroll  
 38 in a course offered or maintained by a postsecondary credit bearing  
 39 proprietary educational institution.

40 SECTION 6. IC 21-18.5-2-5, AS ADDED BY P.L.107-2012,  
 41 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 UPON PASSAGE]: Sec. 5. "Application", for purposes of

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1 IC 21-18.5-6, means a written request for ~~accreditation or an agent's~~  
 2 **permit authorization** on forms supplied by the board for proprietary  
 3 education.

4 SECTION 7. IC 21-18.5-2-5.5 IS ADDED TO THE INDIANA  
 5 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 6 [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. "Authorization", for**  
 7 **purposes of IC 21-18.5-6, means certification of a status of**  
 8 **approval or authorization by the board for proprietary education**  
 9 **to conduct business as a postsecondary credit bearing proprietary**  
 10 **educational institution.**

11 SECTION 8. IC 21-18.5-2-12, AS ADDED BY P.L.107-2012,  
 12 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 UPON PASSAGE]: Sec. 12. (a) "Postsecondary credit bearing  
 14 proprietary educational institution" means a degree granting and credit  
 15 bearing institution that provides instructional or educational services  
 16 or training, ~~in a technical, professional, mechanical, business, or~~  
 17 ~~industrial occupation, whether on-site, online, or through any~~  
 18 **combination of these or other instructional modalities**, and is  
 19 accredited by an accrediting agency recognized by the United States  
 20 Department of Education or is seeking and progressing toward  
 21 accreditation by an accrediting agency recognized by the United States  
 22 Department of Education.

23 (b) The term does not include the following:

- 24 (1) An Indiana state educational institution or another Indiana  
 25 educational institution established by law and financed in whole  
 26 or in part by public funds.  
 27 (2) A postsecondary proprietary educational institution approved  
 28 or regulated by any other state regulatory board, agency, or  
 29 commission other than the board for proprietary education.  
 30 (3) An elementary or secondary school attended by students in  
 31 kindergarten or grades 1 through 12 and supported in whole or in  
 32 part by private tuition payments.  
 33 (4) Any educational institution or educational training that:  
 34 (A) is maintained or given by an employer or a group of  
 35 employers, without charge, for employees or for individuals  
 36 the employer anticipates employing;  
 37 (B) is maintained or given by a labor organization, without  
 38 charge, for its members or apprentices;  
 39 (C) offers exclusively instruction that is clearly  
 40 self-improvement, motivational, or avocational in intent  
 41 (including instruction in dance, music, or self-defense, and  
 42 private tutoring); or

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1 (D) is a Montessori or nursery school.  
 2 (5) A privately endowed two (2) or four (4) year degree granting  
 3 institution that is regionally accredited and whose principal  
 4 campus is located in Indiana.  
 5 **(6) Out-of-state public and not-for-profit degree granting**  
 6 **institutions offering instructional or educational services or**  
 7 **training in Indiana.**  
 8 **(7) An institution that exclusively offers educational**  
 9 **instruction of a clearly religious nature or education**  
 10 **programs of a clearly religious nature.**  
 11 SECTION 9. IC 21-18.5-5-2, AS ADDED BY P.L.107-2012,  
 12 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 UPON PASSAGE]: Sec. 2. (a) The board for proprietary education  
 14 consists of the following seven (7) members:  
 15 (1) The state superintendent or the superintendent's designee.  
 16 (2) The executive officer of the commission for higher education  
 17 or the executive officer's designee.  
 18 (3) Five (5) members appointed by the governor.  
 19 (b) The members appointed by the governor under subsection (a)  
 20 serve for a term of four (4) years.  
 21 (c) Not more than three (3) of the members appointed by the  
 22 governor may be members of the same political party.  
 23 (d) Of the five (5) members appointed by the governor:  
 24 (1) one (1) must have been engaged for a period of at least five  
 25 (5) years immediately preceding appointment in an executive or  
 26 a managerial position in a postsecondary proprietary educational  
 27 institution subject to IC 21-18.5-6;  
 28 (2) one (1) must have been engaged in administering or managing  
 29 an industrial employee training program for a period of at least  
 30 five (5) years immediately preceding appointment; and  
 31 (3) three (3) must be representatives of the public at large who are  
 32 not representatives of the types of postsecondary credit bearing  
 33 proprietary educational institutions to be ~~accredited~~ **authorized**.  
 34 For purposes of subdivision (3), an elected or appointed state or local  
 35 official or a member of a private or public school may not be appointed  
 36 as a representative of the public at large.  
 37 (e) An appointment to fill a vacancy occurring on the board for  
 38 proprietary education is for the unexpired term.  
 39 SECTION 10. IC 21-18.5-6-2, AS ADDED BY P.L.107-2012,  
 40 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 UPON PASSAGE]: Sec. 2. A person may not do business as a  
 42 postsecondary credit bearing proprietary educational institution in

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1 Indiana without having obtained ~~accreditation~~ **authorization by the**  
 2 **board for proprietary education** under this chapter, **except for:**

- 3 **(1) an institution that exclusively offers educational**  
 4 **instruction of a clearly religious nature; or**  
 5 **(2) the educational programs of a clearly religious nature that**  
 6 **are offered by an institution.**

7 SECTION 11. IC 21-18.5-6-2.5 IS ADDED TO THE INDIANA  
 8 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 9 [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. A person may not do**  
 10 **business as a degree-granting institution in Indiana unless:**

- 11 **(1) the institution is accredited by an accrediting agency**  
 12 **recognized by the United States Department of Education or**  
 13 **is seeking and progressing toward accreditation by an**  
 14 **accrediting agency recognized by the United States**  
 15 **Department of Education; or**  
 16 **(2) the institution exclusively offers educational instruction of**  
 17 **a clearly religious nature.**

18 SECTION 12. IC 21-18.5-6-3, AS ADDED BY P.L.107-2012,  
 19 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 UPON PASSAGE]: **Sec. 3. Applications for accreditation**  
 21 **authorization** under this chapter must be filed with the board for  
 22 proprietary education and accompanied by an application fee of at least  
 23 one hundred dollars (\$100) for processing the application and  
 24 evaluating the postsecondary credit bearing proprietary educational  
 25 institution.

26 SECTION 13. IC 21-18.5-6-4, AS ADDED BY P.L.107-2012,  
 27 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 UPON PASSAGE]: **Sec. 4. An application for accreditation**  
 29 **authorization** under this chapter must include at least the following  
 30 information:

- 31 (1) The name and address of the postsecondary credit bearing  
 32 proprietary educational institution and the institution's officers.  
 33 (2) The places where the courses are to be provided.  
 34 (3) The types of courses to be offered, the form of instruction to  
 35 be followed with the class, shop, or laboratory, and the hours  
 36 required for each curriculum.  
 37 (4) The form of certificate, diploma, or degree to be awarded.  
 38 (5) A statement of the postsecondary credit bearing proprietary  
 39 educational institution's finances.  
 40 (6) A description of the postsecondary credit bearing proprietary  
 41 educational institution's physical facilities, including classrooms,  
 42 laboratories, library, machinery, and equipment.

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- 1 (7) An explicit statement of policy with reference to:  
 2 (A) solicitation of students;  
 3 (B) payment and amount of student fees; and  
 4 (C) conditions under which students are entitled to a refund in  
 5 part or in full of fees paid, including a statement concerning  
 6 the existence of the career college student assurance fund  
 7 established under section 6 of this chapter.  
 8 (8) Provisions for liability insurance of students.  
 9 (9) Maximum student-teacher ratio to be maintained.  
 10 (10) Minimum requirements for instructional staff.
- 11 SECTION 14. IC 21-18.5-6-5, AS ADDED BY P.L.107-2012,  
 12 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 UPON PASSAGE]: Sec. 5. The board for proprietary education shall  
 14 require each postsecondary credit bearing proprietary educational  
 15 institution to include in each curriculum catalog and promotional  
 16 brochure the following:  
 17 (1) A statement indicating that the postsecondary credit bearing  
 18 proprietary educational institution is ~~regulated~~ **authorized** by the  
 19 board for proprietary education under this chapter.  
 20 (2) The board for proprietary education's mailing address and  
 21 telephone number.
- 22 SECTION 15. IC 21-18.5-6-6, AS ADDED BY P.L.107-2012,  
 23 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 UPON PASSAGE]: Sec. 6. (a) The career college student assurance  
 25 fund is established to provide indemnification to a student or an  
 26 enrollee of a postsecondary credit bearing proprietary educational  
 27 institution who suffers loss or damage as a result of:  
 28 (1) the failure or neglect of the postsecondary credit bearing  
 29 proprietary educational institution to faithfully perform all  
 30 agreements, express or otherwise, with the student, enrollee, one  
 31 (1) or both of the parents of the student or enrollee, or a guardian  
 32 of the student or enrollee as represented by the application for the  
 33 institution's ~~accreditation~~ **authorization** and the materials  
 34 submitted in support of that application;  
 35 (2) the failure or neglect of the postsecondary credit bearing  
 36 proprietary educational institution to maintain and operate a  
 37 course or courses of instruction or study in compliance with the  
 38 standards of this chapter; or  
 39 (3) an agent's misrepresentation in procuring the student's  
 40 enrollment.  
 41 (b) The board for proprietary education shall administer the fund.  
 42 (c) The expenses of administering the fund shall be paid from

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1 money in the fund.

2 (d) The treasurer of state shall invest the money in the fund not  
3 currently needed to meet the obligations of the fund in the same  
4 manner as other public funds may be invested.

5 (e) Money in the fund at the end of a state fiscal year does not revert  
6 to the state general fund but remains available to be used for providing  
7 money for reimbursements allowed under this chapter.

8 (f) Upon the fund acquiring fifty thousand dollars (\$50,000), the  
9 balance in the fund must not become less than fifty thousand dollars  
10 (\$50,000). If:

11 (1) a claim against the fund is filed that would, if paid in full,  
12 require the balance of the fund to become less than fifty thousand  
13 dollars (\$50,000); and

14 (2) the board for proprietary education determines that the student  
15 is eligible for a reimbursement under the fund;

16 the board for proprietary education shall prorate the amount of the  
17 reimbursement to ensure that the balance of the fund does not become  
18 less than fifty thousand dollars (\$50,000), and the student is entitled to  
19 receive that balance of the student's claim from the fund as money  
20 becomes available in the fund from contributions to the fund required  
21 under this chapter.

22 (g) The board for proprietary education shall ensure that all  
23 outstanding claim amounts described in subsection (f) are paid as  
24 money in the fund becomes available in the chronological order of the  
25 outstanding claims.

26 (h) A claim against the fund may not be construed to be a debt of the  
27 state.

28 SECTION 16. IC 21-18.5-6-8, AS ADDED BY P.L.107-2012,  
29 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 UPON PASSAGE]: Sec. 8. (a) Upon receipt of an application for  
31 ~~accreditation~~ **authorization** under this chapter, the board for  
32 proprietary education shall make an investigation to determine the  
33 accuracy of the statements in the application to determine if the  
34 postsecondary credit bearing proprietary educational institution meets  
35 the minimum standards for ~~accreditation~~. **authorization.**

36 (b) During the investigation under subsection (a), the board for  
37 proprietary education may grant a temporary status of ~~accreditation~~.  
38 **authorization.** The temporary status of ~~accreditation~~ **authorization** is  
39 sufficient to meet the requirements of this chapter until a determination  
40 on ~~accreditation~~ **authorization** is made.

41 SECTION 17. IC 21-18.5-6-11, AS ADDED BY P.L.107-2012,  
42 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 UPON PASSAGE]: Sec. 11. Full ~~accreditation~~ **authorization** under  
 2 this chapter may not be issued unless and until the board for proprietary  
 3 education finds that the postsecondary credit bearing proprietary  
 4 educational institution meets minimum standards that are appropriate  
 5 to that type or class of postsecondary credit bearing proprietary  
 6 educational institution, including the following minimum standards:

7 (1) The postsecondary credit bearing proprietary educational  
 8 institution has a sound financial structure with sufficient  
 9 resources for continued support.

10 (2) The postsecondary credit bearing proprietary educational  
 11 institution has satisfactory training or educational facilities with  
 12 sufficient tools, supplies, or equipment and the necessary number  
 13 of work stations or classrooms to adequately train, instruct, or  
 14 educate the number of students enrolled or proposed to be  
 15 enrolled.

16 (3) The postsecondary credit bearing proprietary educational  
 17 institution has an adequate number of qualified instructors or  
 18 teachers, sufficiently trained by experience or education, to give  
 19 the instruction, education, or training contemplated.

20 (4) The advertising and representations made on behalf of the  
 21 postsecondary credit bearing proprietary educational institution  
 22 to prospective students are truthful and free from  
 23 misrepresentation or fraud.

24 (5) The charge made for the training, instruction, or education is  
 25 clearly stated and based upon the services rendered.

26 (6) The premises and conditions under which the students work  
 27 and study are sanitary, healthful, and safe according to modern  
 28 standards.

29 (7) The postsecondary credit bearing proprietary educational  
 30 institution has and follows a refund policy approved by the board  
 31 for proprietary education.

32 (8) The owner or chief administrator of the postsecondary credit  
 33 bearing proprietary educational institution is subject to a  
 34 background check by the board for proprietary education and has  
 35 not been convicted of a felony.

36 (9) The owner or chief administrator of the postsecondary credit  
 37 bearing proprietary educational institution has not been the owner  
 38 or chief administrator of a postsecondary credit bearing  
 39 proprietary educational institution that has had its ~~accreditation~~  
 40 **authorization** revoked or has been closed involuntarily in the five  
 41 (5) year period preceding the application for ~~accreditation~~  
 42 **authorization**. However, if the owner or chief administrator of

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1 the postsecondary credit bearing proprietary educational  
 2 institution has been the owner or chief administrator of a  
 3 postsecondary credit bearing proprietary educational institution  
 4 that has had its ~~accreditation~~ **authorization** revoked or has been  
 5 closed involuntarily more than five (5) years before the  
 6 application for ~~accreditation~~, **authorization**, the board for  
 7 proprietary education may issue full ~~accreditation~~ **authorization**  
 8 at the board for proprietary education's discretion.

9 SECTION 18. IC 21-18.5-6-12, AS ADDED BY P.L.107-2012,  
 10 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 UPON PASSAGE]: Sec. 12. (a) After an investigation and a finding  
 12 that the information in the application is true and **that** the  
 13 postsecondary credit bearing proprietary educational institution meets  
 14 the minimum standards, the ~~commission on postsecondary proprietary~~  
 15 ~~education board for proprietary education~~ shall issue an  
 16 ~~accreditation~~ **authorization** to the postsecondary credit bearing  
 17 proprietary educational institution upon payment of an additional fee  
 18 of at least twenty-five dollars (\$25). An applicant's market research  
 19 may not be considered or required by the board for proprietary  
 20 education as a condition for ~~accrediting~~ **authorizing** or renewing the  
 21 accreditation of or for ~~approval~~ **authorization** of the programs of a  
 22 postsecondary credit bearing proprietary educational institution.

23 (b) The board for proprietary education may waive inspection of a  
 24 postsecondary credit bearing proprietary educational institution that has  
 25 been ~~accredited~~ **authorized** by an accrediting ~~unit~~ **agency recognized**  
 26 **by the United States Department of Education** whose standards are  
 27 approved by the board for proprietary education as meeting or  
 28 exceeding the requirements of this chapter.

29 (c) A valid license, ~~approval~~ **authorization** to operate, or other form  
 30 of ~~accreditation~~ **authorization** issued to a postsecondary credit bearing  
 31 proprietary educational institution by another state may be accepted,  
 32 instead of inspection, if:

- 33 (1) the requirements of that state meet or exceed the requirements  
 34 of this chapter; and
- 35 (2) the other state will, in turn, extend reciprocity to  
 36 postsecondary credit bearing proprietary educational institutions  
 37 ~~accredited~~ **authorized** by the board for proprietary education.

38 (d) An ~~accreditation~~ **authorization** issued under this section expires  
 39 one (1) year following the ~~accreditation's~~ **authorization's** issuance.

40 (e) An ~~accredited~~ **authorized** postsecondary credit bearing  
 41 proprietary educational institution may renew the institution's  
 42 ~~accreditation~~ **authorization** annually upon:

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1 (1) the payment of a fee of at least twenty-five dollars (\$25); and  
 2 (2) continued compliance with this chapter.  
 3 SECTION 19. IC 21-18.5-6-13, AS ADDED BY P.L.107-2012,  
 4 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 UPON PASSAGE]: Sec. 13. ~~Accreditation~~ **Authorization** may be  
 6 revoked by the board for proprietary education:  
 7 (1) for cause upon notice and an opportunity for a hearing before  
 8 the board for proprietary education; and  
 9 (2) for the ~~accredited~~ **authorized** postsecondary credit bearing  
 10 proprietary educational institution failing to make the appropriate  
 11 quarterly contributions to the career college student assurance  
 12 fund not later than forty-five (45) days after the end of a quarter.  
 13 SECTION 20. IC 21-18.5-6-14, AS ADDED BY P.L.107-2012,  
 14 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 UPON PASSAGE]: Sec. 14. (a) A postsecondary credit bearing  
 16 proprietary educational institution, after notification that the  
 17 institution's ~~accreditation~~ **authorization** has been refused, revoked, or  
 18 suspended, may apply for a hearing before the board for proprietary  
 19 education concerning the institution's qualifications. The application  
 20 for a hearing must be filed in writing with the board for proprietary  
 21 education not more than thirty (30) days after receipt of notice of the  
 22 denial, revocation, or suspension.  
 23 (b) The board for proprietary education shall give a hearing  
 24 promptly and with not less than ten (10) days notice of the date, time,  
 25 and place. The postsecondary credit bearing proprietary educational  
 26 institution is entitled to be represented by counsel and to offer oral and  
 27 documentary evidence relevant to the issue.  
 28 (c) Not more than fifteen (15) days after a hearing, the board for  
 29 proprietary education shall make written findings of fact, a written  
 30 decision, and a written order based solely on the evidence submitted at  
 31 the hearing, either granting or denying ~~accreditation~~ **authorization** to  
 32 the postsecondary credit bearing proprietary educational institution.  
 33 SECTION 21. IC 21-18.5-6-15, AS ADDED BY P.L.107-2012,  
 34 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 UPON PASSAGE]: Sec. 15. A postsecondary credit bearing  
 36 proprietary educational institution's ~~accreditation~~ **authorization** shall  
 37 be suspended at any time if the ~~accredited~~ **authorized** postsecondary  
 38 credit bearing proprietary educational institution denies enrollment to  
 39 a student or makes a distinction or classification of students on the  
 40 basis of race, color, or creed.  
 41 SECTION 22. IC 21-18.5-6-17, AS ADDED BY P.L.107-2012,  
 42 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 UPON PASSAGE]: Sec. 17. (a) A person representing a postsecondary  
 2 credit bearing proprietary educational institution doing business in  
 3 Indiana by offering courses may not sell a course or solicit students for  
 4 the institution unless the person first secures an agent's permit from the  
 5 board for proprietary education. If the agent represents more than one  
 6 (1) postsecondary credit bearing proprietary educational institution; a  
 7 separate agent's permit must be obtained for each institution that the  
 8 agent represents:

9 (b) Upon approval of an agent's permit, the board for proprietary  
 10 education shall issue a pocket card to the person that includes:

- 11 (1) the person's name and address;
- 12 (2) the name and address of the postsecondary credit bearing  
 13 proprietary educational institution that the person represents; and
- 14 (3) a statement certifying that the person whose name appears on  
 15 the card is an authorized agent of the postsecondary credit bearing  
 16 proprietary educational institution.

17 (c) The application must be accompanied by a fee of at least ten  
 18 dollars (\$10).

19 (d) An agent's permit is valid for one (1) year from the date of its  
 20 issue. An application for renewal must be accompanied by a fee of at  
 21 least ten dollars (\$10).

22 (e) A postsecondary credit bearing proprietary educational  
 23 institution is liable for the actions of the institution's agents.

24 SECTION 23. IC 21-18.5-6-18 IS REPEALED [EFFECTIVE  
 25 UPON PASSAGE]. Sec. 18: (a) An application for an agent's permit  
 26 must be granted or denied by the board for proprietary education not  
 27 more than fifteen (15) working days after the receipt of the application.  
 28 If the board for proprietary education has not completed a  
 29 determination with respect to the issuance of a permit under this  
 30 section within the fifteen (15) working day period, the board for  
 31 proprietary education shall issue a temporary permit to the applicant.  
 32 The temporary permit is sufficient to meet the requirements of this  
 33 chapter until a determination is made on the application:

34 (b) A permit issued under this chapter may, upon ten (10) days  
 35 notice and after a hearing, be revoked by the board for proprietary  
 36 education:

- 37 (1) if the holder of the permit solicits or enrolls students through  
 38 fraud, deception, or misrepresentation; or
- 39 (2) upon a finding that the permit holder is not of good moral  
 40 character.

41 SECTION 24. IC 21-18.5-6-21, AS ADDED BY P.L.107-2012,  
 42 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 UPON PASSAGE]: Sec. 21. An obligation, negotiable or  
 2 nonnegotiable, providing for payment for a course or courses of  
 3 instruction is void if the postsecondary credit bearing proprietary  
 4 educational institution is not ~~accredited~~ **authorized** to operate in  
 5 Indiana.

6 SECTION 25. IC 21-18.5-6-22, AS ADDED BY P.L.107-2012,  
 7 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 UPON PASSAGE]: Sec. 22. The issuance of ~~an agent's permit or any~~  
 9 ~~accreditation~~ **authorization** may not be considered to constitute  
 10 ~~approval~~ **endorsement** of a course, a person, or an institution. A  
 11 representation to the contrary is a misrepresentation.

12 SECTION 26. IC 21-18.5-6-22.5 IS ADDED TO THE INDIANA  
 13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 14 [EFFECTIVE UPON PASSAGE]: **Sec. 22.5. A person who knowingly**  
 15 **and intentionally violates section 16 or 22 of this chapter commits**  
 16 **a deceptive act that is actionable by the attorney general under**  
 17 **IC 24-5-0.5 and is subject to the penalties and remedies available**  
 18 **to the attorney general under IC 24-5-0.5.**

19 SECTION 27. IC 21-18.5-6-24, AS ADDED BY P.L.107-2012,  
 20 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 UPON PASSAGE]: Sec. 24. An action of the board for proprietary  
 22 education concerning the issuance, denial, or revocation of a ~~permit or~~  
 23 ~~accreditation~~ **an authorization** under this chapter is subject to review  
 24 under IC 4-21.5.

25 SECTION 28. IC 21-18.5-6-26, AS ADDED BY P.L.107-2012,  
 26 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 UPON PASSAGE]: Sec. 26. (a) As used in this section, "fund" means  
 28 the postsecondary credit bearing proprietary educational institution  
 29 ~~accreditation~~ **authorization** fund established by subsection (b).

30 (b) The postsecondary credit bearing proprietary educational  
 31 institution ~~accreditation~~ **authorization** fund is established.

32 (c) The fund shall be administered by the commission (as defined  
 33 in IC 21-18.5-2-7.).

34 (d) Money in the fund at the end of a state fiscal year does not revert  
 35 to the general fund.

36 (e) All fees collected by the board for proprietary education under  
 37 this chapter shall be deposited in the fund.

38 (f) Money in the fund shall be used by the board for ~~postsecondary~~  
 39 proprietary education to administer this chapter.

40 SECTION 29. IC 22-4.1-21-10, AS ADDED BY P.L.107-2012,  
 41 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 UPON PASSAGE]: Sec. 10. (a) The office for career and technical

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1 schools is established to carry out the responsibilities of the council  
2 under this chapter.

3 (b) The council may employ and fix compensation for necessary  
4 administrative staff with the approval of the department.

5 (c) The ~~council~~ **department** may adopt reasonable rules under  
6 IC 4-22-2 to implement this chapter.

7 (d) The council may adopt and use a seal, the description of which  
8 shall be filed with the office of the secretary of state, and which may be  
9 used for the authentication of the acts of the council.

10 SECTION 30. IC 22-4.1-21-16, AS ADDED BY P.L.107-2012,  
11 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 UPON PASSAGE]: Sec. 16. (a) Subject to subsections (b), (d), and (e),  
13 the council shall determine the penal sum of each surety bond required  
14 under section 15 of this chapter based upon the following guidelines:

15 (1) A postsecondary proprietary educational institution that has no  
16 annual gross tuition charges assessed for the previous year shall  
17 secure a surety bond in the amount of twenty-five thousand  
18 dollars (\$25,000).

19 (2) If at any time the postsecondary proprietary educational  
20 institution's projected annual gross tuition charges are more than  
21 two hundred fifty thousand dollars (\$250,000), the institution  
22 shall secure a surety bond in the amount of fifty thousand dollars  
23 (\$50,000).

24 (b) After June 30, 2006, and except as provided in:

25 (1) section 19 of this chapter; and

26 (2) subsection (e);

27 and upon the fund achieving at least an initial ~~one million five~~  
28 **hundred thousand** dollar (~~\$1,000,000~~) **(\$500,000)** balance, a  
29 postsecondary proprietary educational institution that contributes to the  
30 fund when the initial quarterly contribution is required under this  
31 chapter after the fund's establishment is not required to make  
32 contributions to the fund or submit a surety bond.

33 (c) The council shall determine the number of quarterly  
34 contributions required for the fund to initially accumulate ~~one million~~  
35 **five hundred thousand** dollars (~~\$1,000,000~~) **(\$500,000)**.

36 (d) Except as provided in section 19 of this chapter and subsection  
37 (e), a postsecondary proprietary educational institution that begins  
38 making contributions to the fund after the initial quarterly contribution  
39 as required under this chapter is required to make contributions to the  
40 fund for the same number of quarters as determined by the council  
41 under subsection (c).

42 (e) If, after the fund acquires ~~one million five hundred thousand~~

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1 dollars (~~\$1,000,000~~); **(\$500,000)**, the balance in the fund becomes less  
 2 than **five two hundred fifty** thousand dollars (~~\$500,000~~); **(\$250,000)**,  
 3 all postsecondary proprietary educational institutions not required to  
 4 make contributions to the fund as described in subsection (b) or (d)  
 5 shall make contributions to the fund for the number of quarters  
 6 necessary for the fund to accumulate ~~one million five hundred~~  
 7 **thousand** dollars (~~\$1,000,000~~); **(\$500,000)**.

8 SECTION 31. IC 24-5-0.5-3, AS AMENDED BY P.L.226-2011,  
 9 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 UPON PASSAGE]: Sec. 3. (a) The following acts, and the following  
 11 representations as to the subject matter of a consumer transaction,  
 12 made orally, in writing, or by electronic communication, by a supplier,  
 13 are deceptive acts:

- 14 (1) That such subject of a consumer transaction has sponsorship,  
 15 approval, performance, characteristics, accessories, uses, or  
 16 benefits it does not have which the supplier knows or should  
 17 reasonably know it does not have.
- 18 (2) That such subject of a consumer transaction is of a particular  
 19 standard, quality, grade, style, or model, if it is not and if the  
 20 supplier knows or should reasonably know that it is not.
- 21 (3) That such subject of a consumer transaction is new or unused,  
 22 if it is not and if the supplier knows or should reasonably know  
 23 that it is not.
- 24 (4) That such subject of a consumer transaction will be supplied  
 25 to the public in greater quantity than the supplier intends or  
 26 reasonably expects.
- 27 (5) That replacement or repair constituting the subject of a  
 28 consumer transaction is needed, if it is not and if the supplier  
 29 knows or should reasonably know that it is not.
- 30 (6) That a specific price advantage exists as to such subject of a  
 31 consumer transaction, if it does not and if the supplier knows or  
 32 should reasonably know that it does not.
- 33 (7) That the supplier has a sponsorship, approval, or affiliation in  
 34 such consumer transaction the supplier does not have, and which  
 35 the supplier knows or should reasonably know that the supplier  
 36 does not have.
- 37 (8) That such consumer transaction involves or does not involve  
 38 a warranty, a disclaimer of warranties, or other rights, remedies,  
 39 or obligations, if the representation is false and if the supplier  
 40 knows or should reasonably know that the representation is false.
- 41 (9) That the consumer will receive a rebate, discount, or other  
 42 benefit as an inducement for entering into a sale or lease in return

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1 for giving the supplier the names of prospective consumers or  
2 otherwise helping the supplier to enter into other consumer  
3 transactions, if earning the benefit, rebate, or discount is  
4 contingent upon the occurrence of an event subsequent to the time  
5 the consumer agrees to the purchase or lease.

6 (10) That the supplier is able to deliver or complete the subject of  
7 the consumer transaction within a stated period of time, when the  
8 supplier knows or should reasonably know the supplier could not.  
9 If no time period has been stated by the supplier, there is a  
10 presumption that the supplier has represented that the supplier  
11 will deliver or complete the subject of the consumer transaction  
12 within a reasonable time, according to the course of dealing or the  
13 usage of the trade.

14 (11) That the consumer will be able to purchase the subject of the  
15 consumer transaction as advertised by the supplier, if the supplier  
16 does not intend to sell it.

17 (12) That the replacement or repair constituting the subject of a  
18 consumer transaction can be made by the supplier for the estimate  
19 the supplier gives a customer for the replacement or repair, if the  
20 specified work is completed and:

21 (A) the cost exceeds the estimate by an amount equal to or  
22 greater than ten percent (10%) of the estimate;

23 (B) the supplier did not obtain written permission from the  
24 customer to authorize the supplier to complete the work even  
25 if the cost would exceed the amounts specified in clause (A);

26 (C) the total cost for services and parts for a single transaction  
27 is more than seven hundred fifty dollars (\$750); and

28 (D) the supplier knew or reasonably should have known that  
29 the cost would exceed the estimate in the amounts specified in  
30 clause (A).

31 (13) That the replacement or repair constituting the subject of a  
32 consumer transaction is needed, and that the supplier disposes of  
33 the part repaired or replaced earlier than seventy-two (72) hours  
34 after both:

35 (A) the customer has been notified that the work has been  
36 completed; and

37 (B) the part repaired or replaced has been made available for  
38 examination upon the request of the customer.

39 (14) Engaging in the replacement or repair of the subject of a  
40 consumer transaction if the consumer has not authorized the  
41 replacement or repair, and if the supplier knows or should  
42 reasonably know that it is not authorized.

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- 1 (15) The act of misrepresenting the geographic location of the  
 2 supplier by listing a fictitious business name or an assumed  
 3 business name (as described in IC 23-15-1) in a local telephone  
 4 directory if:  
 5 (A) the name misrepresents the supplier's geographic location;  
 6 (B) the listing fails to identify the locality and state of the  
 7 supplier's business;  
 8 (C) calls to the local telephone number are routinely forwarded  
 9 or otherwise transferred to a supplier's business location that  
 10 is outside the calling area covered by the local telephone  
 11 directory; and  
 12 (D) the supplier's business location is located in a county that  
 13 is not contiguous to a county in the calling area covered by the  
 14 local telephone directory.
- 15 (16) The act of listing a fictitious business name or assumed  
 16 business name (as described in IC 23-15-1) in a directory  
 17 assistance database if:  
 18 (A) the name misrepresents the supplier's geographic location;  
 19 (B) calls to the local telephone number are routinely forwarded  
 20 or otherwise transferred to a supplier's business location that  
 21 is outside the local calling area; and  
 22 (C) the supplier's business location is located in a county that  
 23 is not contiguous to a county in the local calling area.
- 24 (17) The violation by a supplier of IC 24-3-4 concerning  
 25 cigarettes for import or export.
- 26 (18) The act of a supplier in knowingly selling or reselling a  
 27 product to a consumer if the product has been recalled, whether  
 28 by the order of a court or a regulatory body, or voluntarily by the  
 29 manufacturer, distributor, or retailer, unless the product has been  
 30 repaired or modified to correct the defect that was the subject of  
 31 the recall.
- 32 (19) The violation by a supplier of 47 U.S.C. 227, including any  
 33 rules or regulations issued under 47 U.S.C. 227.
- 34 (20) The violation by a supplier of the federal Fair Debt  
 35 Collection Practices Act (15 U.S.C. 1692 et seq.), including any  
 36 rules or regulations issued under the federal Fair Debt Collection  
 37 Practices Act (15 U.S.C. 1692 et seq.).
- 38 (21) A violation of IC 24-5-7 (concerning health spa services), as  
 39 set forth in IC 24-5-7-17.
- 40 (22) A violation of IC 24-5-8 (concerning business opportunity  
 41 transactions), as set forth in IC 24-5-8-20.
- 42 (23) A violation of IC 24-5-10 (concerning home consumer

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- 1 transactions), as set forth in IC 24-5-10-18.
- 2 (24) A violation of IC 24-5-11 (concerning home improvement
- 3 contracts), as set forth in IC 24-5-11-14.
- 4 (25) A violation of IC 24-5-12 (concerning telephone
- 5 solicitations), as set forth in IC 24-5-12-23.
- 6 (26) A violation of IC 24-5-13.5 (concerning buyback motor
- 7 vehicles), as set forth in IC 24-5-13.5-14.
- 8 (27) A violation of IC 24-5-14 (concerning automatic
- 9 dialing-announcing devices), as set forth in IC 24-5-14-13.
- 10 (28) A violation of IC 24-5-15 (concerning credit services
- 11 organizations), as set forth in IC 24-5-15-11.
- 12 (29) A violation of IC 24-5-16 (concerning unlawful motor
- 13 vehicle subleasing), as set forth in IC 24-5-16-18.
- 14 (30) A violation of IC 24-5-17 (concerning environmental
- 15 marketing claims), as set forth in IC 24-5-17-14.
- 16 (31) A violation of IC 24-5-19 (concerning deceptive commercial
- 17 solicitation), as set forth in IC 24-5-19-11.
- 18 (32) A violation of IC 24-5-21 (concerning prescription drug
- 19 discount cards), as set forth in IC 24-5-21-7.
- 20 (33) A violation of IC 24-5-23.5-7 (concerning real estate
- 21 appraisals), as set forth in IC 24-5-23.5-9.
- 22 (34) A violation of IC 24-5-26 (concerning identity theft), as set
- 23 forth in IC 24-5-26-3.
- 24 (35) A violation of IC 24-5.5 (concerning mortgage rescue fraud),
- 25 as set forth in IC 24-5.5-6-1.
- 26 (36) A violation of IC 24-8 (concerning promotional gifts and
- 27 contests), as set forth in IC 24-8-6-3.
- 28 **(37) A violation of IC 21-18.5-6 (concerning representations**
- 29 **made by a postsecondary credit bearing proprietary**
- 30 **educational institution), as set forth in IC 21-18.5-6-22.5.**
- 31 (b) Any representations on or within a product or its packaging or
- 32 in advertising or promotional materials which would constitute a
- 33 deceptive act shall be the deceptive act both of the supplier who places
- 34 such representation thereon or therein, or who authored such materials,
- 35 and such other suppliers who shall state orally or in writing that such
- 36 representation is true if such other supplier shall know or have reason
- 37 to know that such representation was false.
- 38 (c) If a supplier shows by a preponderance of the evidence that an
- 39 act resulted from a bona fide error notwithstanding the maintenance of
- 40 procedures reasonably adopted to avoid the error, such act shall not be
- 41 deceptive within the meaning of this chapter.
- 42 (d) It shall be a defense to any action brought under this chapter that

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1 the representation constituting an alleged deceptive act was one made  
2 in good faith by the supplier without knowledge of its falsity and in  
3 reliance upon the oral or written representations of the manufacturer,  
4 the person from whom the supplier acquired the product, any testing  
5 organization, or any other person provided that the source thereof is  
6 disclosed to the consumer.

7 (e) For purposes of subsection (a)(12), a supplier that provides  
8 estimates before performing repair or replacement work for a customer  
9 shall give the customer a written estimate itemizing as closely as  
10 possible the price for labor and parts necessary for the specific job  
11 before commencing the work.

12 (f) For purposes of subsection (a)(15) and (a)(16), a telephone  
13 company or other provider of a telephone directory or directory  
14 assistance service or its officer or agent is immune from liability for  
15 publishing the listing of a fictitious business name or assumed business  
16 name of a supplier in its directory or directory assistance database  
17 unless the telephone company or other provider of a telephone  
18 directory or directory assistance service is the same person as the  
19 supplier who has committed the deceptive act.

20 (g) For purposes of subsection (a)(18), it is an affirmative defense  
21 to any action brought under this chapter that the product has been  
22 altered by a person other than the defendant to render the product  
23 completely incapable of serving its original purpose.

24 **SECTION 32. An emergency is declared for this act.**

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