

Ariel Defay proposes the following substitute bill:

**Reinvestment Fee Amendments**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ariel Defay**

Senate Sponsor: Kirk A. Cullimore

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to reinvestment fees in homeowners' associations.

**Highlighted Provisions:**

This bill:

- defines terms;
- amends the expenses for which a homeowners' association may use a reinvestment fee;
- amends the amount of a reinvestment fee that a homeowners' association may impose;
- requires that a homeowners' association deposit 50% of a reinvestment fee into reserve funds;

- provides that when a homeowners' association registers with the Department of Commerce, the homeowners' association shall ~~§~~ **[provide certain information relating to a] state whether or not the homeowners' association imposes a** ~~←§~~ reinvestment fee or a transfer fee; and

- makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**57-1-46**, as last amended by Laws of Utah 2025, Chapter 226

**57-8-13.1**, as last amended by Laws of Utah 2025, Chapter 226

**57-8a-105**, as last amended by Laws of Utah 2025, Chapter 226

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*Be it enacted by the Legislature of the state of Utah:*

28 Section 1. Section **57-1-46** is amended to read:

29 **57-1-46 . Transfer fee and reinvestment fee covenants.**

30 (1) As used in this section:

31 (a) "Association expenses" means expenses incurred by a common interest association  
32 for:

33 (i) the purchase, ownership, leasing, construction, operation, use, administration,  
34 maintenance, improvement, repair, or replacement of association facilities,  
35 including expenses for taxes, insurance, operating reserves, capital reserves, and  
36 emergency funds;

37 (ii) providing, establishing, creating, or managing a facility, activity, service, or  
38 program for the benefit of property owners, tenants, common areas, the burdened  
39 property, or property governed by the common interest association; or

40 (iii) other facilities, activities, services, or programs that are required or permitted  
41 under the common interest association's organizational documents.

42 (b) "Association facilities" means any real property, improvements on real property, or  
43 personal property owned, leased, constructed, developed, managed, or used by a  
44 common interest association, including common areas.

45 (c) "Association transfer fee" means a fee, charge, or payment that is:

46 (i) related to the sale of real property; and

47 (ii) as a result of a transfer of the real property, is imposed on a buyer or seller by:

48 (A) a common interest association; or

49 (B) a person acting on behalf of the common interest association.

50 (d) "Burdened property" means the real property that is subject to a reinvestment fee  
51 covenant or transfer fee covenant.

52 (e)(i) "Capital-intensive infrastructure maintenance" means maintenance of  
53 infrastructure or facilities that a common interest association owns, operates, or  
54 maintains that:

55 (A) have a projected useful life exceeding five years after the day on which  
56 construction on the infrastructure or facilities finishes;

57 (B) require periodic replacement, reconstruction, or major rehabilitation; and

58 (C) reasonably require advance funding through capital reserves, replacement  
59 reserves, or special assessments.

60 (ii) "Capital-intensive infrastructure maintenance" does not include the following  
61 activities done to infrastructure or facilities that a common interest association

62 owns, operates, or maintains:

63 (A) performing routine maintenance;

64 (B) landscaping;

65 (C) installing signage; or

66 (D) installing perimeter fencing.

67 [~~e~~] (f) "Common areas" means areas described within:

68 (i) the definition of "common areas and facilities" under Section 57-8-3; and

69 (ii) the definition of "common areas" under Section 57-8a-102.

70 [~~f~~] (g)(i) "Common interest association" means:

71 (A) an association, as defined in Section 57-8a-102;

72 (B) an association of unit owners, as defined in Section 57-8-3; or

73 (C) a nonprofit association.

74 (ii) "Common interest association" includes a person authorized by an association,  
75 association of unit owners, or nonprofit association.

76 [~~g~~] (h) "Large master planned development" means an approved development:

77 (i) of at least 500 acres or 500 units; and

78 (ii) that includes a commitment to fund, construct, develop, or maintain:

79 (A) common infrastructure;

80 (B) association facilities;

81 (C) community programming;

82 (D) resort facilities;

83 (E) open space; or

84 (F) recreation amenities.

85 (i) "Low-amenity association" means a common interest association that:

86 (i) is comprised of only detached single-family homes; and

87 (ii) does not provide capital intensive infrastructure maintenance services to the  
88 members of the association.

89 [~~h~~] (j) "Nonprofit association" means a nonprofit corporation organized under Title 16,  
90 Chapter 6a, Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve,  
91 govern, manage, or maintain burdened property.

92 [~~i~~] (k) "Organizational documents" means:

93 (i) for an association, as that term is defined in Section 57-8a-102, governing  
94 documents as that term is defined in Section 57-8a-102;

95 (ii) for an association of unit owners, as that term is defined in Section 57-8-3, a

- 96 declaration as that term is defined in Section 57-8-3; and
- 97 (iii) for a nonprofit association:
  - 98 (A) a written instrument by which the nonprofit association exercises powers or
  - 99 manages, maintains, or otherwise affects the property under the jurisdiction of
  - 100 the nonprofit association; and
  - 101 (B) articles of incorporation, bylaws, plats, charters, the nonprofit association's
  - 102 rules, and declarations of covenants, conditions, and restrictions.

103 [~~(j)~~] (l) "Reinvestment fee" means a fee imposed, directly or indirectly, by a common  
 104 interest association:

- 105 (i) upon a buyer or seller of real property;
- 106 (ii) upon and as a result of a transfer of the real property; and
- 107 (iii) that is dedicated to benefiting the common areas, including payment for:
  - 108 (A) common planning, facilities, and infrastructure;
  - 109 (B) obligations arising from an environmental covenant;
  - 110 (C) community programming;
  - 111 (D) resort facilities;
  - 112 (E) open space;
  - 113 (F) recreation amenities;
  - 114 (G) charitable purposes; [~~or~~]
  - 115 (H) association expenses[~~;~~] ; or
  - 116 (I) capital intensive infrastructure maintenance.

117 [~~(k)~~] (m) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:

- 118 (i) affects real property; and
- 119 (ii) obligates a future buyer or seller of the real property to pay to a common interest  
 120 association, upon and as a result of a transfer of the real property, a fee that is  
 121 dedicated to benefitting the burdened property, including payment for:
  - 122 (A) common planning, facilities, and infrastructure;
  - 123 (B) obligations arising from an environmental covenant;
  - 124 (C) community programming;
  - 125 (D) resort facilities;
  - 126 (E) open space;
  - 127 (F) recreation amenities;
  - 128 (G) charitable purposes; [~~or~~]
  - 129 (H) association expenses[~~;~~] ; or

- 130 (I) capital intensive infrastructure maintenance.
- 131 (n) "Reserve funds" means:
- 132 (i) for an association, as that term is defined in Section 57-8a-102, reserve funds as  
 133 that term is defined in Section 57-8a-211; and
- 134 (ii) for an association of unit owners, as that term is defined in Section 57-8-3,  
 135 reserve funds as that term is defined in Section 57-8-7.5.
- 136 [(+)] (o)(i) "Transfer fee covenant"[:]
- 137 [(+)] means an obligation, however denominated, expressed in a covenant, restriction,  
 138 agreement, or other instrument or document:
- 139 (A) that affects real property;
- 140 (B) that is imposed on a future buyer or seller of real property, other than a person  
 141 who is a party to the covenant, restriction, agreement, or other instrument or  
 142 document; and
- 143 (C) to pay a fee upon and as a result of a transfer of the real property[;and] .
- 144 (ii) "Transfer fee covenant" does not include:
- 145 (A) an obligation imposed by a court judgment, order, or decree;
- 146 (B) an obligation imposed by the federal government or a state or local  
 147 government entity; or
- 148 (C) a reinvestment fee covenant.
- 149 (2) A transfer fee covenant recorded on or after March 16, 2010, is void and unenforceable.
- 150 (3)(a) Except as provided in Subsection (3)(b), a reinvestment fee covenant may not be  
 151 sold, assigned, or conveyed unless the sale, assignment, or conveyance is to a  
 152 common interest association that was formed to benefit the burdened property.
- 153 (b) A common interest association may assign or pledge to a lender the right to receive  
 154 payment under a reinvestment fee covenant if:
- 155 (i) the assignment or pledge is as collateral for a credit facility; and
- 156 (ii) the lender releases the collateral interest upon payment in full of all amounts that  
 157 the common interest association owes to the lender under the credit facility.
- 158 (4) A reinvestment fee covenant recorded on or after March 16, 2010, is not enforceable if  
 159 the reinvestment fee covenant is intended to affect property that is the subject of a  
 160 previously recorded transfer fee covenant or reinvestment fee covenant.
- 161 (5) [A] Unless the burdened property is part of a large master planned development, a  
 162 reinvestment fee covenant recorded on or after [March 16, 2010] May 6, 2026, may not  
 163 obligate the payment of a fee that exceeds:

164 (a) ~~[.5% of the value of the burdened property[, unless the burdened property is part of~~  
165 ~~a large master planned development.]~~ if the burdened property is located in a  
166 common interest association that is not a low-amenity association; or

167 (b) .25% of the value of the burdened property, if the burdened property is located in a  
168 low-amenity association.

169 (6)(a) A reinvestment fee covenant recorded on or after March 16, 2010, is void and  
170 unenforceable unless a notice of reinvestment fee covenant, separate from the  
171 reinvestment fee covenant, is recorded in the office of the recorder of each county in  
172 which any of the burdened property is located.

173 (b) A notice under Subsection (6)(a) shall:

174 (i) state the name and address of the common interest association to which the fee  
175 under the reinvestment fee covenant is required to be paid;

176 (ii) include the notarized signature of the common interest association's authorized  
177 representative;

178 (iii) state that the burden of the reinvestment fee covenant is intended to run with the  
179 land and to bind successors in interest and assigns;

180 (iv) state that the existence of the reinvestment fee covenant precludes the imposition  
181 of an additional reinvestment fee covenant on the burdened property;

182 (v) state the duration of the reinvestment fee covenant;

183 (vi) state the purpose of the fee required to be paid under the reinvestment fee  
184 covenant; and

185 (vii) state that the fee required to be paid under the reinvestment fee covenant is  
186 required to benefit the burdened property.

187 (c) A recorded notice of reinvestment fee covenant that substantially complies with the  
188 requirements of Subsection (6)(b) is valid and effective.

189 (7)(a) A reinvestment fee covenant or transfer fee covenant recorded before March 16,  
190 2010, is not enforceable after May 31, 2010, unless:

191 (i) a notice that is consistent with the notice described in Subsection (6) is recorded in  
192 the office of the recorder of each county in which any of the burdened property is  
193 located; or

194 (ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in  
195 Subsection (7)(b), is recorded in the office of the recorder of each county in which  
196 any of the burdened property is located.

197 (b) A notice under Subsection (7)(a)(ii) shall:

- 198 (i) include the notarized signature of the beneficiary of the reinvestment fee covenant  
199 or transfer fee covenant, or the beneficiary's authorized representative;
- 200 (ii) state the name and current address of the beneficiary under the reinvestment fee  
201 covenant or transfer fee covenant;
- 202 (iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is  
203 intended to run with the land and to bind successors in interest and assigns; and
- 204 (iv) state the duration of the reinvestment fee covenant or transfer fee covenant.
- 205 (c) A recorded notice of reinvestment fee covenant or transfer fee covenant that  
206 substantially complies with the requirements of Subsection (7)(b) is valid and  
207 effective.
- 208 (d) A notice under Subsection (7)(b):
- 209 (i) that is recorded after May 31, 2010, is not enforceable; and
- 210 (ii) shall comply with the requirements of Section 57-1-47.
- 211 (e) An amendment to a notice under Subsection (7)(b) recorded after May 31, 2010,  
212 seeking to amend a notice under Subsection (7)(b) recorded before May 31, 2010, is  
213 not an enforceable amendment.
- 214 (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced  
215 upon:
- 216 (a) an involuntary transfer;
- 217 (b) a transfer that results from a court order;
- 218 (c) a bona fide transfer to a family member of the seller within three degrees of  
219 consanguinity who, before the transfer, provides adequate proof of consanguinity;
- 220 (d) a transfer or change of interest due to death, whether provided in a will, trust, or  
221 decree of distribution; or
- 222 (e) the transfer of burdened property by a financial institution, except to the extent that  
223 the reinvestment fee covenant requires the payment of a common interest  
224 association's costs directly related to the transfer of the burdened property, not to  
225 exceed \$250.
- 226 (9) An association transfer fee imposed on or after May 7, 2025, is void and unenforceable  
227 unless the association uses the fee only to pay expenses related to the transfer.
- 228 (10) On or after ~~[May 7, 2025]~~ May 6, 2026, an association may not impose a reinvestment  
229 fee unless:
- 230 (a) imposing the reinvestment fee is authorized in the declaration or a reinvestment fee  
231 covenant;~~[and]~~

- 232 (b) a majority of voting interests in the association, or a higher percentage if required in  
 233 the organizational documents, approves the reinvestment fee[-] ; and  
 234 (c) ~~§~~ → **if the association is not a large master planned development,** ← ~~§~~ the association  
 234a deposits at least 50% of the reinvestment fee into reserve funds.
- 235 (11) After a vote approving the reinvestment fee described in Subsection (10)(b), an  
 236 association may set the amount of a reinvestment fee only:  
 237 (a) in accordance with the terms of the declaration or a reinvestment fee covenant; and  
 238 (b) upon providing notice in accordance with Section 57-8a-214.
- 239 (12) Members of the association may remove or amend a reinvestment fee by holding a  
 240 vote at a special meeting:  
 241 (a) called by the members for the purpose of removing or amending the reinvestment  
 242 fee; and  
 243 (b) at which:  
 244 (i) at least 51% of the voting interests attend and vote; and  
 245 (ii) a majority of the voting interests that attend vote to remove or amend the  
 246 reinvestment fee.

247 Section 2. Section **57-8-13.1** is amended to read:

248 **57-8-13.1 . Registration with Department of Commerce -- Department**  
 249 **publication of educational materials.**

- 250 (1) As used in this section[;] :
- 251 (a) [~~"department"~~] "Department" means the Department of Commerce created in Section  
 252 13-1-2.
- 253 (b) "Office" means the Office of the Homeowners' Association Ombudsman created in  
 254 Section 13-79-102.
- 255 (2) No later than 90 days after the recording of a declaration, an association of unit owners  
 256 shall register with the department in the manner established by the department.
- 257 (3) The department shall require an association of unit owners registering as required in this  
 258 section to provide with each registration:  
 259 (a) the name and address of the association of unit owners;  
 260 (b) the name, address, telephone number, and, if applicable, email address of the  
 261 president of the association of unit owners;  
 262 (c) the name and address of each manager or management committee member;  
 263 (d) the name, address, telephone number, and, if the contact person wishes to use email  
 264 or facsimile transmission for communicating payoff information, the email address or

- 265 facsimile number, as applicable, of a primary contact person who has association  
 266 payoff information that a closing agent needs in connection with the closing of a unit  
 267 owner's financing, refinancing, or sale of the owner's unit;~~and~~
- 268 (e) a registration fee ~~[set by]~~ that the department sets in accordance with Section  
 269 63J-1-504~~[-]~~ ; and
- 270 (f) ~~§~~ → **[if] a statement of whether or not** ← ~~§~~ the association of unit owners  
 270a imposes a reinvestment fee or a transfer fee in  
 271 accordance with Section 57-1-46 ~~§~~ → **[, the amount of the reinvestment fee or transfer**  
 271a **fee]** ← ~~§~~  
 272 ~~§~~ → **[that an association of unit owners imposes]** ← ~~§~~ .
- 273 (4)(a) An association of unit owners shall annually renew the registration of the  
 274 association of unit owners described in Subsection (2).
- 275 (b) The department may impose and set the amount of a renewal registration fee in  
 276 accordance with Section 63J-1-504.
- 277 (5) An association of unit owners that has registered under Subsection (2) shall submit to  
 278 the department an update to the association of unit owners' registration information, in  
 279 the manner established by the department, within 90 days after a change in any of the  
 280 information provided under Subsection (3).
- 281 (6)(a) During any period of noncompliance with the registration requirement described  
 282 in Subsection (2) or the requirement for an updated registration described in  
 283 Subsection (5):
- 284 (i) a lien may not arise under Section 57-8-44; and  
 285 (ii) an association of unit owners may not enforce an existing lien that arose under  
 286 Section 57-8-44.
- 287 (b) A period of noncompliance with the registration requirement of Subsection (2) or  
 288 with the updated registration requirement of Subsection (5) does not begin until after  
 289 the expiration of the 90-day period specified in Subsection (2) or (5), respectively.
- 290 (c) An association of unit owners that is not in compliance with the registration  
 291 requirement described in Subsection (2) may end the period of noncompliance by  
 292 registering with the department in the manner established by the department under  
 293 Subsection (2).
- 294 (d) An association of unit owners that is not in compliance with the updated registration  
 295 requirement described in Subsection (5) may end the period of noncompliance by  
 296 submitting to the department an updated registration in the manner established by the

- 297 department under Subsection (5).
- 298 (e) Except as described in Subsection (6)(f), beginning on the date an association of unit  
299 owners ends a period of noncompliance:
- 300 (i) a lien may arise under Section 57-8-44 for any event that:
- 301 (A) occurred during the period of noncompliance; and
- 302 (B) would have given rise to a lien under Section 57-8-44 had the association of  
303 unit owners been in compliance with the registration requirements described in  
304 this section; and
- 305 (ii) an association of unit owners may enforce a lien described in Subsection (6)(c) or  
306 a lien that existed before the period of noncompliance.
- 307 (f) If an owner's unit is conveyed to an independent third party during a period of  
308 noncompliance described in this Subsection (6):
- 309 (i) a lien that arose under Section 57-8-44 before the conveyance of the unit became  
310 final is extinguished when the conveyance of the unit becomes final; and
- 311 (ii) an event that occurred before the conveyance of the unit became final, and that  
312 would have given rise to a lien under Section 57-8-44 had the association of unit  
313 owners been in compliance with the registration requirements of this section, may  
314 not give rise to a lien under Section 57-8-44 if the conveyance of the unit becomes  
315 final before the association of unit owners ends the period of noncompliance.
- 316 (7) The department shall publish educational materials on the department's website  
317 providing, in simple and easy to understand language, a brief overview of state law  
318 governing associations of unit owners, including:
- 319 (a) a description of the rights and responsibilities provided in this chapter to any party  
320 under the jurisdiction of an association of unit owners; and
- 321 (b) instructions regarding how an association of unit owners may be organized and  
322 dismantled in accordance with this chapter.
- 323 (8) On the office's website, the office shall provide a disclaimer that states that a person  
324 may not rely upon the disclosure of a reinvestment fee or transfer fee that an association  
325 of unit owners makes in accordance with Subsection (3)(f) when creating a document  
326 associated with the purchase of real property burdened by the reinvestment fee or  
327 transfer fee.

328 Section 3. Section **57-8a-105** is amended to read:

329 **57-8a-105 . Registration with Department of Commerce -- Department**  
330 **publication of educational materials.**

- 331 (1) As used in this section[;] :
- 332 (a) [~~"department"~~] "Department" means the Department of Commerce created in Section
- 333 13-1-2.
- 334 (b) "Office" means the Office of the Homeowners' Association Ombudsman created in
- 335 Section 13-79-102.
- 336 (2)(a) No later than 90 days after the recording of a declaration of covenants, conditions,
- 337 and restrictions establishing an association, the association shall register with the
- 338 department in the manner established by the department.
- 339 (b) An association existing under a declaration of covenants, conditions, and restrictions
- 340 recorded before May 10, 2011, shall, no later than July 1, 2011, register with the
- 341 department in the manner established by the department.
- 342 (3) The department shall require an association registering as required in this section to
- 343 provide with each registration:
- 344 (a) the name and address of the association;
- 345 (b) the name, address, telephone number, and, if applicable, email address of the chair of
- 346 the association board;
- 347 (c) contact information for the manager;
- 348 (d) the name, address, telephone number, and, if the contact person wishes to use email
- 349 or facsimile transmission for communicating payoff information, the email address or
- 350 facsimile number, as applicable, of a primary contact person who has association
- 351 payoff information that a closing agent needs in connection with the closing of a lot
- 352 owner's financing, refinancing, or sale of the owner's lot;~~[-and]~~
- 353 (e) a registration fee [~~set by~~] that the department sets in accordance with Section
- 354 63J-1-504[;] ; and
- 355 (f) ~~§~~ → **[if a statement of whether or not** ← ~~§~~ the association imposes a
- 355a reinvestment fee or a transfer fee in accordance with
- 356 Section 57-1-46 ~~§~~ → **[, the amount of the reinvestment fee or transfer fee that an**
- 356a **association]** ← ~~§~~
- 357 ~~§~~ → **[imposes]** ← ~~§~~ .
- 358 (4)(a) An association shall annually renew the association's registration described in
- 359 Subsection (2).
- 360 (b) The department may impose and set the amount of a renewal registration fee in
- 361 accordance with Section 63J-1-504.
- 362 (5) An association that has registered under Subsection (2) shall submit to the department

- 363 an update to the association's registration information, in the manner established by the  
364 department, within 90 days after a change in any of the information provided under  
365 Subsection (3).
- 366 (6)(a) During any period of noncompliance with the registration requirement described  
367 in Subsection (2) or the requirement for an updated registration described in  
368 Subsection (5):
- 369 (i) a lien may not arise under Section 57-8a-301; and
  - 370 (ii) an association may not enforce an existing lien that arose under Section 57-8a-301.
- 371 (b) A period of noncompliance with the registration requirement of Subsection (2) or  
372 with the updated registration requirement of Subsection (5) does not begin until after  
373 the expiration of the 90-day period specified in Subsection (2) or (5), respectively.
- 374 (c) An association that is not in compliance with the registration requirement described  
375 in Subsection (2) may end the period of noncompliance by registering with the  
376 department in the manner established by the department under Subsection (2).
- 377 (d) An association that is not in compliance with the updated registration requirement  
378 described in Subsection (5) may end the period of noncompliance by submitting to  
379 the department an updated registration in the manner established by the department  
380 under Subsection (5).
- 381 (e) Except as described in Subsection (6)(f), beginning on the date an association ends a  
382 period of noncompliance:
- 383 (i) a lien may arise under Section 57-8a-301 for any event that:
    - 384 (A) occurred during the period of noncompliance; and
    - 385 (B) would have given rise to a lien under Section 57-8a-301 had the association  
386 been in compliance with the registration requirements described in this section;  
387 and
  - 388 (ii) an association may enforce a lien described in this Subsection (6)(e) or a lien that  
389 existed before the period of noncompliance.
- 390 (f) If an owner's residential lot is conveyed to an independent third party during a period  
391 of noncompliance described in this Subsection (6):
- 392 (i) a lien that arose under Section 57-8a-301 before the conveyance of the residential  
393 lot became final is extinguished when the conveyance of the residential lot  
394 becomes final; and
  - 395 (ii) an event that occurred before the conveyance of the residential lot became final,  
396 and that would have given rise to a lien under Section 57-8a-301 had the

397 association been in compliance with the registration requirements of this section,  
398 may not give rise to a lien under Section 57-8a-301 if the conveyance of the  
399 residential lot becomes final before the association ends the period of  
400 noncompliance.

401 (7) The department shall publish educational materials on the department's website  
402 providing, in simple and easy to understand language, a brief overview of state law  
403 governing associations, including:

404 (a) a description of the rights and responsibilities provided in this chapter to any party  
405 under the jurisdiction of an association; and

406 (b) instructions regarding how an association may be organized and dismantled in  
407 accordance with this chapter.

408 (8)(a) Unless otherwise expressly exempted, this chapter applies to an association that  
409 registers, or renews or updates the association's registration, with the department  
410 under this section.

411 (b) This section applies to an association regardless of when the association is created.

412 (9) On the office's website, the office shall provide a disclaimer that states that a person  
413 may not rely upon the disclosure of a reinvestment fee or transfer fee that an association  
414 makes in accordance with Subsection (3)(f) when creating a document associated with  
415 the purchase of real property burdened by the reinvestment fee or transfer fee.

416 Section 4. **Effective Date.**

417 This bill takes effect on May 6, 2026.