



2026 South Dakota Legislature

House Bill 1105

Introduced by: **Representative** Overweg

1 **An Act to restrict contracts and declarations that prohibit the use of commercial**
 2 **property for any healthcare service in municipalities and townships with**
 3 **populations of less than three thousand, in medically underserved areas, or**
 4 **in areas with a medically underserved population.**

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 **Section 1. That § 11-5-3 be AMENDED:**

7 **11-5-3.** After the execution, recording, and filing of any ~~declaration or contract~~
 8 ~~executed contract or declaration~~ pursuant to §§ 11-5-1 and 11-5-2, the terms and
 9 conditions of the ~~same contract or declaration~~ may be enforced by an action at law or ~~by~~
 10 a suit in equity brought by ~~any~~:

11 (1) Any person possessing any interest in the land affected by such declaration or
 12 ~~contract or in any part of such land, or such action or suit may be maintained by~~
 13 the affected real property; or

14 (2) The first or second class municipality within which such land the property is
 15 situated.

16 A contract or declaration in violation of section 2 of this Act is not enforceable.

17 **Section 2. That a NEW SECTION be added to chapter 11-5:**

18 Notwithstanding the provisions of § 11-5-1, an owner of real property zoned for
 19 commercial use may not impose, by contract or declaration as set forth in § 11-5-2, any
 20 regulation or restriction that prohibits use of the real property for a healthcare service, if
 21 the real property is located in:

22 (1) A municipality or township with a population of less than three thousand, as
 23 determined by the last preceding federal census; or

- 1 (2) A geographic area that is designated either as a medically underserved area or as
2 having a medically underserved population by the Department of Health in
3 accordance with the Public Health Service Act, 42 U.S.C. ch. 6A (January 1, 2026).
4 For purposes of this section, "healthcare service" means any service provided by
5 an accredited, certified, or licensed facility or practitioner for the purpose of curing,
6 diagnosing, preventing, relieving, or treating any health-related condition, disease,
7 emergency, illness, or injury.