

2026 South Dakota Legislature

House Bill 1026**AMENDMENT 1026A
FOR THE INTRODUCED BILL**

An Act to provide for the licensing of property data collectors and the registration of property data collection companies and to provide a penalty therefor.

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

Section 1. That a NEW SECTION be added to a NEW CHAPTER in title 36:

Terms used in this chapter mean:

(1) "Department," the Department of Labor and Regulation;

(2) "Property data collection," the:

(a) Physical or virtual visual observation of a specified parcel of real estate and the improvements located thereon, for use as part of a real estate-related financial transaction; and

(b) Preparation of a property data collection report that is transmitted to a property data collection company, and does not involve the practice of real estate appraisal, as defined in § 36-21B-2;

(3) "Property data collection company," an entity that employs, contracts, retains, or otherwise engages one or more property data collectors to perform a property data collection and which is retained by a client to manage the process of having a property data collection performed;

(4) "Property data collector," an individual licensed by the department to perform a property data collection; and

(5) "Real estate-related financial transaction," any agreement involving:

(a) The sale, lease, purchase, auction, finance, exchange of, or investment in, real estate, including interests in real estate and the financing thereof;

(b) The refinancing of real estate or interests in real estate; and

(c) The use of real estate or interests in real estate as security for a loan or investment, including mortgage-backed securities.

Section 2. That a NEW SECTION be added to a NEW CHAPTER in title 36:

Except as provided in sections 4 and 5 of this Act, an individual must be licensed by the department, in accordance with this chapter, to engage in the practice of property data collection or to use the title "property data collector" or any other title to indicate the individual is a property data collector.

A violation of this section is a Class 1 misdemeanor.

Section 3. That a NEW SECTION be added to a NEW CHAPTER in title 36:

To apply for licensure as a property data collector, an individual shall:

- (1) Submit an application provided by the department;
- (2) Pay the licensure fee established by the department in accordance with section 19 of this Act;
- (3) Provide to the department documentation of having:
 - (a) Completed a course of instruction approved by the department, which covers all aspects of property data collection and consists of at least thirty hours; and
 - (b) Passed a department-approved examination indicating proficiency in property data collection;
- (4) Provide to the department documentation of having participated in five property data collections, as follows:
 - (a) During the period beginning July 1, 2026, and ending December 31, 2027, the property data collection must be performed under the supervision of an individual who has performed at least five property data collections; and
 - (b) Beginning January 1, 2028, the property data collection must be under the supervision of a property data collector;
- (5) Provide to the department all documentation required by section 9 of this Act:
 - (a) A business services bond;
 - (b) General liability insurance; and
 - (c) Errors and omissions insurance; and
- (6) Submit to and pass a state and federal fingerprint-based criminal background check at the individual's expense.

Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 36:

The following individuals are not required to be licensed in accordance with this chapter in order to engage in property data collection:

- (1) An architect, licensed in accordance with chapter 36-18A;

(2) An attorney, admitted to practice law in accordance with chapter 16-16;

(3) An engineer, licensed in accordance with chapter 36-18A;

(4) A home inspector, licensed or registered in accordance with chapter 36-21C;

~~(3)~~(5) A real estate appraiser, licensed in accordance with chapter 36-21B; or

~~(4)~~(6) A real estate broker, licensed in accordance with chapter 36-21A.

~~The-These~~ individuals are subject to all other provisions of this chapter regarding property data collection.

Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 36:

This chapter does not apply to:

(1) A bank, trust company, savings and loan association, land mortgage, or farm loan association, if engaged in the transaction of business within the scope of its corporate powers, as provided by law; or

(2) Any of the following, when acting within the scope of their practice or employment:

(a) An employee of a political subdivision;

(b) An insurance adjuster;

(c) A land surveyor, licensed in accordance with chapter 36-18A;

(d) A landscape architect, licensed in accordance with chapter 36-18A; or

(e) Any employee of any individual or entity enumerated in this section.

An individual or entity enumerated in this section is otherwise subject to the provisions of this chapter when engaging in property data collection.

Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 36:

The department may not issue a property data collection license to a partnership, association, corporation, firm, or group.

A property data collector may perform property data collection services for, or on behalf of, a partnership, an association, a corporation, a firm, or a group; may conduct business as one of these entities; and may enter into and enforce contracts as one of these entities.

Section 7. That a NEW SECTION be added to a NEW CHAPTER in title 36:

A license issued by the department pursuant to this chapter expires on December thirty-first of each year.

To renew a license, a licensee must:

- 1 (1) Submit a renewal application provided by the department;
2 (2) Pay the renewal fee established by the department, as provided in section 19 of
3 this Act; and
4 (3) Provide proof to the department of the completion of seven classroom hours of
5 department-approved continuing education, consisting of topics designed to
6 maintain or increase a property data collector's competency.
7 The department may reinstate an expired license if a renewal application and fee
8 are received within thirty days after the expiration of the license. The department shall
9 assess a fifty-dollar late fee.

10 **Section 8. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 11 No person may influence, or attempt to influence, a property data collection
12 through any means that impairs, or attempts to impair, the independence of a property
13 data collector.
14 A violation of this section is a Class 1 misdemeanor.

15 **Section 9. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 16 Property data collectors, in order to protect the public without unduly burdening
17 the company, shall possess:
18 (1) Errors and omissions insurance in the amount of two hundred fifty thousand
19 dollars, whether as individual coverage or as coverage under an employer policy,
20 with coverage parameters established by the department in rules promulgated
21 pursuant to chapter 1-26;
22 (2) General liability insurance in the amount of two hundred fifty thousand dollars,
23 whether as individual coverage or as coverage under an employer policy, with
24 coverage parameters established by the department in rules promulgated pursuant
25 to chapter 1-26; and
26 (3) A business services bond in the amount of twenty-five thousand dollars, with
27 parameters established by the department in rules promulgated pursuant to
28 chapter 1-26.

29 **Section 10. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 30 Upon first interaction with a property owner or agent of the property owner, or the
31 primary person present at the property during a property data collection, a property data

collector shall provide a document, in a form and manner prescribed by the department,
that:

- (1) Includes the property data collector's name, contact information, and state license number;
- (2) Describes the process of property data collection;
- (3) States that:
 - (a) The property data collector is not a licensed real estate appraiser;
 - (b) Data collected as part of the property data collection may be provided to a lender or the lender's agent; and
 - (c) The information collected may be provided to a real estate appraiser to aid in the determination of the value of the property; and
- (4) Provides the information necessary to file a complaint with the department.

Section 11. That a NEW SECTION be added to a NEW CHAPTER in title 36:

The department may, in compliance with chapter 1-26 and §§ 36-1C-17 through 36-1C-19, inclusive, deny the issuance of a license or suspend or revoke a license if the applicant or licensee:

- (1) Is convicted of, or pleads guilty or nolo contendere to, a crime of moral turpitude, as defined in § 22-1-2, or a felony;
- (2) Obtains a license by false or fraudulent representation; or
- (3) Engages in conduct that demonstrates the licensee or applicant's inability to perform a data property collection in accordance with standards established by the department, pursuant to section 19 of this Act.

Section 12. That a NEW SECTION be added to a NEW CHAPTER in title 36:

An entity may not engage in business, either directly or indirectly, as a property data collection company, without first registering with the department in accordance with sections 13, 14, and 19 of this Act.

A property data collection company may not hire, employ, retain, contract or otherwise engage an individual to perform property data collection unless the individual:

- (1) Is licensed as a property data collector in accordance with this chapter; or
- (2) Is exempt from the licensing requirement, pursuant to sections 4 and 5 of this Act.

The department may deny registration or revoke an entity's registration, if the department finds that the entity is in violation of this chapter, or rules adopted under this chapter.

Section 13. That a NEW SECTION be added to a NEW CHAPTER in title 36:

To register as a property data collection company, an entity must:

(1) Submit an application provided by the department that contains:

(a) The entity's contact information; and

(b) The name and contact information of the entity's agent for service of process in this state, if the entity is not a corporation domiciled in this state;

(2) Certify that the entity has a system for:

(a) Verifying that individuals are licensed according to this chapter;

(b) Reviewing the work of property data collectors for the entity; and

(c) Maintaining a detailed record of each property data collection service request that it receives and the property data collector who performs the property data collection service;

(3) Submit an irrevocable uniform consent to service of process form; and

(4) Pay the registration fee established by the department in accordance with section 19 of this Act.

Section 14. That a NEW SECTION be added to a NEW CHAPTER in title 36:

A registration issued by the department pursuant to sections 12 and 13 of this Act expires on December thirty-first of each year.

To renew a registration, an entity must:

(1) Submit a renewal application provided by the department; and

(2) Pay the renewal fee established by the department in accordance with section 19 of this Act.

The department may reinstate an expired registration if a renewal application and fee are received within thirty days after the expiration of the registration. The department shall assess a fifty-dollar late fee for reinstatement.

Section 15. That a NEW SECTION be added to a NEW CHAPTER in title 36:

An entity registered as an appraisal management company pursuant to chapter 36-21D may act as a property data collection company without registering in accordance with this chapter, but is otherwise subject to the provisions of this chapter when acting as a property data collection company.

Section 16. That a NEW SECTION be added to a NEW CHAPTER in title 36:

- 1 A property data collection company must possess:
- 2 (1) General liability insurance in the amount of five hundred thousand dollars, with
- 3 coverage parameters established by the department to protect the public, in rules
- 4 promulgated pursuant to chapter 1-26; and
- 5 (2) A business services bond in the amount of twenty-five thousand dollars, with
- 6 parameters established by the department to protect the public, in rules
- 7 promulgated pursuant to chapter 1-26.

8 **Section 17. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

9 If a property data collection report is provided by a property data collection

10 company to a real estate appraiser for use in an appraisal, the report must include the

11 name and contact information of the property data collector who performed the property

12 data collection.

13 **Section 18. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

14 There is created in the state treasury the property data collection fund. The fund

15 consists of all fees imposed pursuant to this chapter and any other moneys designated for

16 deposit in the fund.

17 The department shall administer the fund. The purpose of the fund is to defray

18 expenses associated with the administration of the licensure and registration of property

19 data collectors and property data collection companies, as provided in this chapter.

20 Interest on moneys credited to the fund must remain in the fund.

21 **Section 19. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

22 The department shall promulgate rules, in accordance with chapter 1-26, to

23 establish:

- 24 (1) Criteria governing the initial licensure and renewal application processes;
- 25 (2) Criteria for registering property data collection companies;
- 26 (3) Education standards for licensing and criteria for verifying compliance;
- 27 (4) Continuing education standards for licensing renewal and criteria for verifying
- 28 compliance;
- 29 (5) Standards governing the practice of property data collection;
- 30 (6) The initial licensure fee, not to exceed six hundred dollars;
- 31 (7) The licensure renewal fee, not to exceed three hundred dollars;

- 1 (8) The registration fee, not to exceed one thousand dollars; and
- 2 (9) The registration renewal fee, not to exceed five hundred dollars.

AMENDED