

2026 South Dakota Legislature

House Bill 1105

**AMENDMENT 1105A
FOR THE INTRODUCED BILL**

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

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

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

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

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

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

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

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

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

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

1 (2) A geographic area that is designated either as a medically underserved area or
2 as having a medically underserved population a medically underserved area, a medically
3 underserved community, or a county with a medically underserved population, as
4 designated by the Department of Health in accordance with the Public Health Service Act,
5 42 U.S.C. ch. 6A (January 1, 2026).

6 For purposes of this section, "healthcare service" means any service provided by
7 an accredited, certified, or licensed facility or practitioner for the purpose of curing,
8 diagnosing, preventing, relieving, or treating any health-related condition, disease,
9 emergency, illness, or injury.