



2026 South Dakota Legislature

House Bill 1178

Introduced by: **Representative** Novstrup

1 **An Act to establish provisions for homeownership through shared equity**
 2 **agreements.**

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

4 **Section 1. That a NEW SECTION be added to a NEW CHAPTER in title 11:**

5 Terms used in this Act mean:

6 (1) "Contribution," the amount an investor-owner agrees to contribute, as a fixed
 7 percentage, to an occupant-owner's down payment and monthly mortgage
 8 obligation;

9 (2) "Eligible home," a single-family residence that:

10 (a) Complies with all applicable residential building code and local zoning
 11 requirements;

12 (b) Is the primary residence of an occupant-owner; and

13 (c) Is not a manufactured or mobile home;

14 (3) "Investor-owner," a person that makes a contribution toward an occupant-owner's
 15 purchase of an eligible home;

16 (4) "Occupant-owner," an individual who, together with the individual's spouse, if
 17 applicable, agrees to purchase an eligible home, assisted by the contribution of an
 18 investor-owner; and

19 (5) "Shared equity agreement," a written agreement setting forth the terms and
 20 conditions of an arrangement in which an investor-owner makes a contribution
 21 toward an occupant-owner's purchase of an eligible home, in exchange for the
 22 occupant-owner's grant of a shared equity encumbrance in favor of the investor-
 23 owner.

24 **Section 2. That a NEW SECTION be added to a NEW CHAPTER in title 11:**

1 If an investor-owner and an occupant-owner desire to enter into a shared equity
2 agreement pursuant to this Act, the investor-owner and the occupant-owner must execute
3 the agreement and record the agreement in the office of the register of deeds for the
4 county in which the home is located.

5 **Section 3. That a NEW SECTION be added to a NEW CHAPTER in title 11:**

6 A shared equity agreement must:

- 7 (1) Identify the investor-owner and occupant-owner each by full legal name, residence
8 or physical location, mailing address, and phone number;
9 (2) State the location of the eligible home, including the full legal description of the
10 real property;
11 (3) Specify the agreed-upon contribution, not exceeding thirty percent;
12 (4) Establish a term for the agreement, not exceeding fifteen years, unless renewed
13 as set forth in section 6 of this Act;
14 (5) Provide that title to the home is held by the occupant-owner, subject to an
15 encumbrance that:
16 (a) Secures the occupant-owner's obligation to repay the contribution and any
17 other agreed upon amount to the investor-owner; and
18 (b) Is subordinate to the mortgage as required in section 5 of this Act.
19 (6) Grant the occupant-owner the exclusive right of possession of the home during the
20 term of the agreement;
21 (7) Allocate to the occupant-owner all responsibility for the payment of capital
22 improvements, insurance, maintenance, repairs, taxes, and utilities;
23 (8) Allow the occupant-owner to elect to buy out the investor-owner's share prior to
24 expiration of the term;
25 (9) Contain provisions describing events of default and available remedies, including
26 termination of the agreement pursuant to section 6 of this Act; and
27 (10) Pursuant to section 7 of this Act, include provisions for:
28 (a) Payment due to the investor-owner upon termination of the agreement; and
29 (b) Conveyance of the investor-owner's interest in the eligible home to the
30 occupant-owner.

31 **Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 11:**

32 A shared equity agreement may not:

- 1 (1) Run with the land or be binding or enforceable at law or in equity against any
 2 subsequent bona fide purchaser of the real property;
 3 (2) Prohibit the occupant-owner from using the home in any lawful manner as the
 4 occupant-owner chooses;
 5 (3) Contain a prepayment penalty; or
 6 (4) Prevent the occupant-owner from refinancing a mortgage or lien against the home,
 7 provided that the terms comply with section 5 of this Act.

8 **Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 11:**

9 The occupant-owner in a shared equity arrangement is required to obtain a
 10 traditional mortgage for the eligible home, which must have a fixed or limited variable
 11 interest rate for at least the term of the shared equity agreement and any renewal of the
 12 agreement.

13 **Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 11:**

14 A shared equity agreement terminates upon the earlier of:
 15 (1) The investor-owner's receipt of notice of the occupant-owner's election to buy out
 16 the investor-owner's interest in the eligible home;
 17 (2) The maturity of the mortgage against the home;
 18 (3) The transfer of ownership of the home, further encumbrance of the home, except
 19 refinancing as contemplated in section 4 of this Act, or any other conveyance of
 20 title;
 21 (4) The occurrence of an agreed-upon event of default that requires termination of the
 22 agreement;
 23 (5) One hundred twenty days after the death of the occupant-owner, unless the
 24 investor-owner consents in writing to the assumption of the agreement by the
 25 occupant-owner's successor; or
 26 (6) The expiration of the agreement's term, unless the investor-owner and occupant-
 27 owner elect, prior to the expiration, to renew the agreement for a successive term
 28 not exceeding fifteen years.

29 **Section 7. That a NEW SECTION be added to a NEW CHAPTER in title 11:**

30 Upon termination of a shared equity agreement, the eligible home must be
 31 appraised, at the occupant-owner's expense, by an independent licensed appraiser

1 selected by agreement of the investor-owner and the occupant-owner, and the investor-
2 owner is entitled to payment in an amount that is the greater of:

3 (1) The contribution percentage multiplied by the appraised value of the home; or

4 (2) The actual dollar amount contributed by the investor-owner pursuant to the
5 agreement, plus interest at a rate equal to one percent higher than the maximum
6 rate of the first mortgage obtained by the occupant-owner pursuant to section 5 of
7 this Act.

8 As of the date of termination, the occupant-owner is responsible for all financial
9 obligations associated with the home, including any amounts owing under a mortgage.

10 The investor-owner's contribution is zero percent as of the date of termination.

11 The investor-owner does not bear any portion of any loss resulting from the sale
12 or appraisal of the eligible home at a value below the original purchase price of the home,
13 and the occupant-owner is solely responsible for any resulting loss.

14 Upon receipt of payment in full pursuant to this section, the investor-owner must
15 execute and record a release of the encumbrance.

16 **Section 8. That a NEW SECTION be added to a NEW CHAPTER in title 11:**

17 A shared equity agreement entered into pursuant to this Act creates a private co-
18 ownership arrangement between an investor-owner and an occupant-owner, which
19 precludes the occupant-owner from using public housing moneys to finance an eligible
20 home.