



2026 South Dakota Legislature

House Bill 1105

HOUSE STATE AFFAIRS ENGROSSED

Introduced by: **Representative** Overweg

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

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 or residential use may not impose, by contract or declaration as set forth in
 20 § 11-5-2, any regulation or restriction that prohibits use of the real property for a
 21 healthcare service, if the real property is located in a medically underserved area, a
 22 medically underserved community, or a county with a medically underserved population,
 23 as designated by the Department of Health in accordance with the Public Health Service
 24 Act, 42 U.S.C. ch. 6A (January 1, 2026).

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