

1 A bill to be entitled

2 An act relating to determination of resident status  
3 for tuition purposes; amending s. 1009.21, F.S.;  
4 revising the definitions of the terms "dependent  
5 child" and "parent"; revising certain residency  
6 requirements for a dependent child; prohibiting denial  
7 of classification as a resident for tuition purposes  
8 based on certain immigration status; revising  
9 requirements for documentation of residency; revising  
10 requirements relating to classification or  
11 reclassification as a resident for tuition purposes  
12 based on marriage; revising requirements relating to  
13 reevaluation of classification as a resident for  
14 tuition purposes; classifying persons who receive  
15 certain tuition exemptions or waivers as residents for  
16 tuition purposes; providing that certain veterans of  
17 the Armed Services of the United States and students  
18 who meet certain attendance, graduation, and  
19 enrollment requirements are not classified as  
20 residents for tuition purposes but are exempt from  
21 payment of out-of-state fees; authorizing the  
22 reporting of such persons for purposes of state  
23 funding; providing for the adoption of rules and  
24 regulations; providing an effective date.

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26 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 1009.21, Florida Statutes, is amended to read:

1009.21 Determination of resident status for tuition purposes and exemption from payment of out-of-state fees.— Students shall be classified as residents or nonresidents for the purpose of assessing tuition in postsecondary educational programs offered by charter technical career centers or career centers operated by school districts, in Florida College System institutions, and in state universities.

(1) As used in this section, the term:

(a) "Dependent child" means any person, whether or not living with his or her parent, who is eligible to be claimed by his or her parent as a dependent under the federal income tax code or who is not deemed independent for federal financial aid purposes.

(b) "Initial enrollment" means the first day of class at an institution of higher education.

(c) "Institution of higher education" means any charter technical career center as defined in s. 1002.34, career center operated by a school district as defined in s. 1001.44, Florida College System institution as defined in s. 1000.21(3), or state university as defined in s. 1000.21(6).

(d) "Legal resident" or "resident" means a person who has maintained his or her residence in this state for the preceding year, has purchased a home which is occupied by him or her as

53 his or her residence, or has established a domicile in this  
54 state pursuant to s. 222.17.

55 (e) "Nonresident for tuition purposes" means a person who  
56 does not qualify for the in-state tuition rate.

57 (f) "Parent" means the natural or adoptive parent,  
58 stepparent, or legal guardian of a dependent child.

59 (g) "Resident for tuition purposes" means a person who  
60 qualifies as provided in this section for the in-state tuition  
61 rate.

62 (2) (a) To qualify as a resident for tuition purposes:

63 1. A person or, if that person is a dependent child, his  
64 or her parent or parents must have established legal residence  
65 in this state and must have maintained legal residence in this  
66 state for at least 12 consecutive months immediately before  
67 ~~prior to~~ his or her initial enrollment in an institution of  
68 higher education.

69 2. Every applicant for admission to an institution of  
70 higher education shall be required to make a statement as to his  
71 or her length of residence in the state and, further, shall  
72 establish that his or her presence or, if the applicant is a  
73 dependent child, the presence of his or her parent or parents in  
74 the state currently is, and during the requisite 12-month  
75 qualifying period was, for the purpose of maintaining a bona  
76 fide domicile, rather than for the purpose of maintaining a mere  
77 temporary residence or abode incident to enrollment in an  
78 institution of higher education.

79 (b) However, with respect to a dependent child living with  
80 an adult relative other than the child's parent, such child may  
81 qualify as a resident for tuition purposes if the adult relative  
82 is a legal resident who has maintained legal residence in this  
83 state for at least 12 consecutive months immediately before  
84 ~~prior to~~ the child's initial enrollment in an institution of  
85 higher education, provided the child has resided continuously  
86 with such relative for the 3 ~~5~~ years immediately before ~~prior to~~  
87 the child's initial enrollment in an institution of higher  
88 education, during which time the adult relative has exercised  
89 day-to-day care, supervision, and control of the child.

90 (c) The legal residence of a dependent child whose parents  
91 are divorced, separated, or otherwise living apart will be  
92 deemed to be this state if either parent is a legal resident of  
93 this state, regardless of which parent is entitled to claim, and  
94 does in fact claim, the minor as a dependent pursuant to federal  
95 individual income tax provisions.

96 (d) A dependent child who is a United States citizen may  
97 not be denied classification as a resident for tuition purposes  
98 based solely upon the immigration status of his or her parent.

99 (3) (a) An individual shall not be classified as a resident  
100 for tuition purposes and, thus, shall not be eligible to receive  
101 the in-state tuition rate until he or she has provided such  
102 evidence related to legal residence and its duration or, if that  
103 individual is a dependent child, evidence of his or her parent's  
104 legal residence and its duration, as may be required by law and

105 by officials of the institution of higher education from which  
 106 he or she seeks the in-state tuition rate.

107 (b) Except as otherwise provided in this section, evidence  
 108 of legal residence and its duration shall include clear and  
 109 convincing documentation that residency in this state was for a  
 110 minimum of 12 consecutive months before ~~prior to~~ a student's  
 111 initial enrollment in an institution of higher education.

112 (c) Each institution of higher education shall  
 113 affirmatively determine that an applicant who has been granted  
 114 admission to that institution as a Florida resident meets the  
 115 residency requirements of this section at the time of initial  
 116 enrollment. The residency determination must be documented by  
 117 the submission of written or electronic verification that  
 118 includes two or more of the documents identified in this  
 119 paragraph. Verification of the documents listed in sub-  
 120 subparagraphs 1.a.-d. may be satisfied by submission of an  
 121 affidavit by the person claiming residency. No single piece of  
 122 evidence shall be conclusive.

- 123 1. The documents must include at least one of the  
 124 following:
- 125 a. A Florida voter information ~~voter's registration~~ card.
  - 126 b. A Florida driver ~~driver's~~ license.
  - 127 c. A State of Florida identification card.
  - 128 d. A Florida vehicle registration.
  - 129 e. Proof of a permanent home in Florida which is occupied  
 130 as a primary residence by the individual or by the individual's

131 parent if the individual is a dependent child.

132 f. Proof of a homestead exemption in Florida.

133 g. Transcripts from a Florida high school for multiple

134 years if the Florida high school diploma or GED was earned

135 within the last 12 months.

136 h. Proof of permanent full-time employment in Florida for

137 at least 30 hours per week for a 12-month period.

138 2. The documents may include one or more of the following:

139 a. A declaration of domicile in Florida.

140 b. A Florida professional or occupational license.

141 c. Florida incorporation.

142 d. A document evidencing family ties in Florida.

143 e. Proof of membership in a Florida-based charitable or

144 professional organization.

145 f. Any other documentation that supports the student's

146 request for resident status, including, but not limited to,

147 utility bills and proof of 12 consecutive months of payments; a

148 lease agreement and proof of 12 consecutive months of payments;

149 or an official state, federal, or court document evidencing

150 legal ties to Florida.

151 (4) With respect to a dependent child, the legal residence

152 of the dependent child's parent or parents is prima facie

153 evidence of the dependent child's legal residence, which

154 evidence may be reinforced or rebutted, relative to the age and

155 general circumstances of the dependent child, by the other

156 evidence of legal residence required of or presented by the

157 dependent child. However, the legal residence of a dependent  
158 child's parent or parents who are domiciled outside this state  
159 is not prima facie evidence of the dependent child's legal  
160 residence if that dependent child has lived in this state for 3  
161 ~~5~~ consecutive years before ~~prior to~~ enrolling or reregistering  
162 at the institution of higher education at which resident status  
163 for tuition purposes is sought.

164 (5) A person who physically resides in this state may be  
165 classified as a resident for tuition purposes if he or she  
166 marries a person who meets the 12-month residency requirement  
167 under subsection (2) and otherwise qualifies as a resident for  
168 tuition purposes under this section ~~In making a domiciliary~~  
169 ~~determination related to the classification of a person as a~~  
170 ~~resident or nonresident for tuition purposes, the domicile of a~~  
171 ~~married person, irrespective of sex, shall be determined, as in~~  
172 ~~the case of an unmarried person, by reference to all relevant~~  
173 ~~evidence of domiciliary intent. For the purposes of this~~  
174 ~~section:~~

175 ~~(a) A person shall not be precluded from establishing or~~  
176 ~~maintaining legal residence in this state and subsequently~~  
177 ~~qualifying or continuing to qualify as a resident for tuition~~  
178 ~~purposes solely by reason of marriage to a person domiciled~~  
179 ~~outside this state, even when that person's spouse continues to~~  
180 ~~be domiciled outside of this state, provided such person~~  
181 ~~maintains his or her legal residence in this state.~~

182 ~~(b) A person shall not be deemed to have established or~~

183 ~~maintained a legal residence in this state and subsequently to~~  
184 ~~have qualified or continued to qualify as a resident for tuition~~  
185 ~~purposes solely by reason of marriage to a person domiciled in~~  
186 ~~this state.~~

187 ~~(c) In determining the domicile of a married person,~~  
188 ~~irrespective of sex, the fact of the marriage and the place of~~  
189 ~~domicile of such person's spouse shall be deemed relevant~~  
190 ~~evidence to be considered in ascertaining domiciliary intent.~~

191 (6) (a) Except as otherwise provided in this section, a  
192 person who is classified as a nonresident for tuition purposes  
193 may become eligible for reclassification as a resident for  
194 tuition purposes if that person or, if that person is a  
195 dependent child, his or her parent presents clear and convincing  
196 documentation that supports permanent legal residency in this  
197 state for at least 12 consecutive months rather than temporary  
198 residency for the purpose of pursuing an education, such as  
199 documentation of full-time permanent employment for the prior 12  
200 months or the purchase of a home in this state and residence  
201 therein for the prior 12 months while not enrolled in an  
202 institution of higher education.

203 (b) If a person who is a dependent child and his or her  
204 parent move to this state while such child is a high school  
205 student and the child graduates from a high school in this  
206 state, the child may become eligible for reclassification as a  
207 resident for tuition purposes when the parent submits evidence  
208 that the parent qualifies for permanent residency.



209 (c) If a person who is a dependent child and his or her  
210 parent move to this state after such child graduates from high  
211 school, the child may become eligible for reclassification as a  
212 resident for tuition purposes after the parent submits evidence  
213 that he or she has established legal residence in the state and  
214 has maintained legal residence in the state for at least 12  
215 consecutive months.

216 (d) A person classified as a nonresident for tuition  
217 purposes may be reclassified as a resident by subsequently  
218 marrying a person who meets the criteria to establish residency  
219 for tuition purposes. In order to be reclassified, a person must  
220 submit all of the following:

221 1. Evidence of his or her own physical residence in this  
222 state.

223 2. Evidence of marriage to a person who qualifies as a  
224 resident for tuition purposes under this section.

225 3. Documentation to support his or her spouse's residency  
226 classification. A person who is classified as a nonresident for  
227 tuition purposes and who marries a legal resident of the state  
228 or marries a person who becomes a legal resident of the state  
229 may, upon becoming a legal resident of the state, become  
230 eligible for reclassification as a resident for tuition purposes  
231 upon submitting evidence of his or her own legal residency in  
232 the state, evidence of his or her marriage to a person who is a  
233 legal resident of the state, and evidence of the spouse's legal  
234 residence in the state for at least 12 consecutive months

235 ~~immediately preceding the application for reclassification.~~

236 (7) A person shall not lose his or her resident status for  
237 tuition purposes solely by reason of serving, or, if such person  
238 is a dependent child, by reason of his or her parent's or  
239 parents' serving, in the Armed Forces outside this state.

240 (8) Once any institution of higher education in the state  
241 classifies a student as a resident for tuition purposes or  
242 verifies that a student meets the criteria under subsection  
243 (11), an institution of higher education is not required to  
244 reevaluate the classification unless inconsistent information  
245 suggests that an erroneous classification was made or the  
246 student breaks enrollment from the institution for a period of  
247 12 months or longer. ~~A person who has been properly classified~~  
248 ~~as a resident for tuition purposes but who, while enrolled in an~~  
249 ~~institution of higher education in this state, loses his or her~~  
250 ~~resident tuition status because the person or, if he or she is a~~  
251 ~~dependent child, the person's parent or parents establish~~  
252 ~~domicile or legal residence elsewhere shall continue to enjoy~~  
253 ~~the in-state tuition rate for a statutory grace period, which~~  
254 ~~period shall be measured from the date on which the~~  
255 ~~circumstances arose that culminated in the loss of resident~~  
256 ~~tuition status and shall continue for 12 months. However, if the~~  
257 ~~12-month grace period ends during a semester or academic term~~  
258 ~~for which such former resident is enrolled, such grace period~~  
259 ~~shall be extended to the end of that semester or academic term.~~

260 (9) Any person who ceases to be enrolled at or who

261 graduates from an institution of higher education while  
262 classified as a resident for tuition purposes and who  
263 subsequently abandons his or her domicile in this state shall be  
264 permitted to reenroll at an institution of higher education in  
265 this state as a resident for tuition purposes without the  
266 necessity of meeting the 12-month durational requirement of this  
267 section if that person has reestablished his or her domicile in  
268 this state within 12 months after ~~of~~ such abandonment and  
269 continuously maintains the reestablished domicile during the  
270 period of enrollment. The benefit of this subsection shall not  
271 be accorded more than once to any one person.

272 (10) The following persons shall be classified as  
273 residents for tuition purposes:

274 (a) Active duty members of the Armed Services of the  
275 United States residing or stationed in this state, their  
276 spouses, and dependent children, and active drilling members of  
277 the Florida National Guard.

278 (b) Active duty members of the Armed Services of the  
279 United States and their spouses and dependents attending a  
280 Florida College System institution or state university within 50  
281 miles of the military establishment where they are stationed, if  
282 such military establishment is within a county contiguous to  
283 Florida.

284 (c) United States citizens living on the Isthmus of  
285 Panama, who have completed 12 consecutive months of college work  
286 at the Florida State University Panama Canal Branch, and their

287 spouses and dependent children.

288 (d) Full-time instructional and administrative personnel  
289 employed by state public schools and institutions of higher  
290 education and their spouses and dependent children.

291 (e) Students from Latin America and the Caribbean who  
292 receive scholarships from the federal or state government. Any  
293 student classified pursuant to this paragraph shall attend, on a  
294 full-time basis, a Florida institution of higher education.

295 (f) Southern Regional Education Board's Academic Common  
296 Market graduate students attending Florida's state universities.

297 (g) Full-time employees of state agencies or political  
298 subdivisions of the state when the student fees are paid by the  
299 state agency or political subdivision for the purpose of job-  
300 related law enforcement or corrections training.

301 (h) McKnight Doctoral Fellows and Finalists who are United  
302 States citizens.

303 (i) United States citizens living outside the United  
304 States who are teaching at a Department of Defense Dependent  
305 School or in an American International School and who enroll in  
306 a graduate level education program which leads to a Florida  
307 teaching certificate.

308 (j) Active duty members of the Canadian military residing  
309 or stationed in this state under the North American Air Defense  
310 (NORAD) agreement, and their spouses and dependent children,  
311 attending a Florida College System institution or state  
312 university within 50 miles of the military establishment where

313 they are stationed.

314 (k) Active duty members of a foreign nation's military who  
315 are serving as liaison officers and are residing or stationed in  
316 this state, and their spouses and dependent children, attending  
317 a Florida College System institution or state university within  
318 50 miles of the military establishment where the foreign liaison  
319 officer is stationed.

320 (l) Persons who receive a tuition exemption or waiver  
321 under s. 112.19(3), s. 112.191(3), s. 961.06(1)(b), s.  
322 1009.25(1)(c), (d), or (f), or s. 1009.26(8) or (10).

323 (11) The following persons are not classified as residents  
324 for tuition purposes but are exempt from the payment of out-of-  
325 state fees:

326 (a) Veterans of the Armed Services of the United States,  
327 including reserve components thereof, who were honorably  
328 discharged and who physically reside in this state while  
329 enrolled in an institution of higher education.

330 (b) Students, regardless of immigration status, who attend  
331 a secondary school in this state for 3 consecutive years  
332 immediately before high school graduation, apply for enrollment  
333 in an institution of higher education within 24 months after  
334 graduation, and submit an official Florida high school  
335 transcript as documentary evidence of attendance and graduation.

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337 Persons who are exempt from the payment of out-of-state fees  
338 under this subsection may be reported for purposes of state  
339 funding.

340 ~~(12)-(11) Once a student has been classified as a resident~~  
341 ~~for tuition purposes, an institution of higher education to~~  
342 ~~which the student transfers is not required to reevaluate the~~  
343 ~~classification unless inconsistent information suggests that an~~  
344 ~~erroneous classification was made or the student's situation has~~  
345 ~~changed. However, the student must have attended the institution~~  
346 ~~making the initial classification within the prior 12 months,~~  
347 ~~and the residency classification must be noted on the student's~~  
348 ~~transcript.~~ The Higher Education Coordinating Council shall  
349 consider issues related to residency determinations and make  
350 recommendations relating to efficiency and effectiveness of  
351 current law.

352 ~~(13)-(12)~~ Each institution of higher education shall  
353 establish a residency appeal committee comprised of at least  
354 three members to consider student appeals of residency  
355 determinations, in accordance with the institution's official  
356 appeal process. The residency appeal committee must render to  
357 the student the final residency determination in writing. The  
358 institution must advise the student of the reasons for the  
359 determination.

360 ~~(14)-(13)~~ The State Board of Education shall adopt rules,  
361 and the Board of Governors shall adopt regulations, ~~rules~~ to  
362 implement this section.

CS/CS/HB 851

2014

363            Section 2.   This act shall take effect July 1, 2014.