

By the Committees on Appropriations; Education; and Senators Diaz de la Portilla, Wilson, Villalobos, Margolis, Hill and Dawson

309-2535-03

1 A bill to be entitled  
2 An act relating to determination of resident  
3 status for tuition purposes; amending s.  
4 1009.21, F.S.; classifying specified students  
5 as residents for tuition purposes; classifying  
6 certain liaison officers and their spouses and  
7 dependent children as residents for tuition  
8 purposes; providing an effective date.

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

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

14 1009.21 Determination of resident status for tuition  
15 purposes; exemption.--Students shall be classified as  
16 residents or nonresidents for the purpose of assessing tuition  
17 in community colleges and state universities.

18 (1) As used in this section:

19 (a) The term "dependent child" means any person,  
20 whether or not living with his or her parent, who is eligible  
21 to be claimed by his or her parent as a dependent under the  
22 federal income tax code.

23 (b) The term "institution of higher education" means  
24 any public community college or state university.

25 (c) A "legal resident" or "resident" is a person who  
26 has maintained his or her residence in this state for the  
27 preceding year, has purchased a home which is occupied by him  
28 or her as his or her residence, or has established a domicile  
29 in this state pursuant to s. 222.17.

30 (d) The term "parent" means the natural or adoptive  
31 parent or legal guardian of a dependent child.

1 (e) A "resident for tuition purposes" is a person who  
2 qualifies as provided in subsection (2) for the in-state  
3 tuition rate; a "nonresident for tuition purposes" is a person  
4 who does not qualify for the in-state tuition rate.

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

6 1. A person or, if that person is a dependent child,  
7 his or her parent or parents must have established legal  
8 residence in this state and must have maintained legal  
9 residence in this state for at least 12 months immediately  
10 prior to his or her qualification.

11 2. Every applicant for admission to an institution of  
12 higher education shall be required to make a statement as to  
13 his or her length of residence in the state and, further,  
14 shall establish that his or her presence or, if the applicant  
15 is a dependent child, the presence of his or her parent or  
16 parents in the state currently is, and during the requisite  
17 12-month qualifying period was, for the purpose of maintaining  
18 a bona fide domicile, rather than for the purpose of  
19 maintaining a mere temporary residence or abode incident to  
20 enrollment in an institution of higher education.

21 (b) However, with respect to a dependent child living  
22 with an adult relative other than the child's parent, such  
23 child may qualify as a resident for tuition purposes if the  
24 adult relative is a legal resident who has maintained legal  
25 residence in this state for at least 12 months immediately  
26 prior to the child's qualification, provided the child has  
27 resided continuously with such relative for the 5 years  
28 immediately prior to the child's qualification, during which  
29 time the adult relative has exercised day-to-day care,  
30 supervision, and control of the child.

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

7           (3) An individual shall not be classified as a  
8 resident for tuition purposes and, thus, shall not be eligible  
9 to receive the in-state tuition rate until he or she has  
10 provided such evidence related to legal residence and its  
11 duration as may be required by officials of the institution of  
12 higher education from which he or she seeks the in-state  
13 tuition rate.

14           (4) With respect to a dependent child, the legal  
15 residence of such individual's parent or parents is prima  
16 facie evidence of the individual's legal residence, which  
17 evidence may be reinforced or rebutted, relative to the age  
18 and general circumstances of the individual, by the other  
19 evidence of legal residence required of or presented by the  
20 individual. However, the legal residence of an individual  
21 whose parent or parents are domiciled outside this state is  
22 not prima facie evidence of the individual's legal residence  
23 if that individual has lived in this state for 5 consecutive  
24 years prior to enrolling or reregistering at the institution  
25 of higher education at which resident status for tuition  
26 purposes is sought.

27           (5) In making a domiciliary determination related to  
28 the classification of a person as a resident or nonresident  
29 for tuition purposes, the domicile of a married person,  
30 irrespective of sex, shall be determined, as in the case of an  
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1 unmarried person, by reference to all relevant evidence of  
2 domiciliary intent. For the purposes of this section:

3 (a) A person shall not be precluded from establishing  
4 or maintaining legal residence in this state and subsequently  
5 qualifying or continuing to qualify as a resident for tuition  
6 purposes solely by reason of marriage to a person domiciled  
7 outside this state, even when that person's spouse continues  
8 to be domiciled outside of this state, provided such person  
9 maintains his or her legal residence in this state.

10 (b) A person shall not be deemed to have established  
11 or maintained a legal residence in this state and subsequently  
12 to have qualified or continued to qualify as a resident for  
13 tuition purposes solely by reason of marriage to a person  
14 domiciled in this state.

15 (c) In determining the domicile of a married person,  
16 irrespective of sex, the fact of the marriage and the place of  
17 domicile of such person's spouse shall be deemed relevant  
18 evidence to be considered in ascertaining domiciliary intent.

19 (6) Any nonresident person, irrespective of sex, who  
20 marries a legal resident of this state or marries a person who  
21 later becomes a legal resident may, upon becoming a legal  
22 resident of this state, accede to the benefit of the spouse's  
23 immediately precedent duration as a legal resident for  
24 purposes of satisfying the 12-month durational requirement of  
25 this section.

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

30 (8) A person who has been properly classified as a  
31 resident for tuition purposes but who, while enrolled in an

1 institution of higher education in this state, loses his or  
2 her resident tuition status because the person or, if he or  
3 she is a dependent child, the person's parent or parents  
4 establish domicile or legal residence elsewhere shall continue  
5 to enjoy the in-state tuition rate for a statutory grace  
6 period, which period shall be measured from the date on which  
7 the circumstances arose that culminated in the loss of  
8 resident tuition status and shall continue for 12 months.  
9 However, if the 12-month grace period ends during a semester  
10 or academic term for which such former resident is enrolled,  
11 such grace period shall be extended to the end of that  
12 semester or academic term.

13 (9) Any person who ceases to be enrolled at or who  
14 graduates from an institution of higher education while  
15 classified as a resident for tuition purposes and who  
16 subsequently abandons his or her domicile in this state shall  
17 be permitted to reenroll at an institution of higher education  
18 in this state as a resident for tuition purposes without the  
19 necessity of meeting the 12-month durational requirement of  
20 this section if that person has reestablished his or her  
21 domicile in this state within 12 months of such abandonment  
22 and continuously maintains the reestablished domicile during  
23 the period of enrollment. The benefit of this subsection shall  
24 not be accorded more than once to any one person.

25 (10) The following persons shall be classified as  
26 residents for tuition purposes:

27 (a) Active duty members of the Armed Services of the  
28 United States residing or stationed in this state, their  
29 spouses, and dependent children, and active members of the  
30 Florida National Guard who qualify under s. 250.10(7) and (8)  
31 for the tuition assistance program.

1 (b) Active duty members of the Armed Services of the  
2 United States and their spouses attending a public community  
3 college or state university within 50 miles of the military  
4 establishment where they are stationed, if such military  
5 establishment is within a county contiguous to Florida.

6 (c) United States citizens living on the Isthmus of  
7 Panama, who have completed 12 consecutive months of college  
8 work at the Florida State University Panama Canal Branch, and  
9 their spouses and dependent children.

10 (d) Full-time instructional and administrative  
11 personnel employed by state public schools, community  
12 colleges, and institutions of higher education, as defined in  
13 s. 1000.04, and their spouses and dependent children.

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

19 (f) Southern Regional Education Board's Academic  
20 Common Market graduate students attending Florida's state  
21 universities.

22 (g) Full-time employees of state agencies or political  
23 subdivisions of the state when the student fees are paid by  
24 the state agency or political subdivision for the purpose of  
25 job-related law enforcement or corrections training.

26 (h) McKnight Doctoral Fellows and Finalists who are  
27 United States citizens.

28 (i) United States citizens living outside the United  
29 States who are teaching at a Department of Defense Dependent  
30 School or in an American International School and who enroll  
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1 in a graduate level education program which leads to a Florida  
2 teaching certificate.

3 (j) Active duty members of the Canadian military  
4 residing or stationed in this state under the North American  
5 Air Defense (NORAD) agreement, and their spouses and dependent  
6 children, attending a community college or state university  
7 within 50 miles of the military establishment where they are  
8 stationed.

9 (k) Students, other than nonimmigrant aliens within  
10 the meaning of 8 U.S.C. s. 1101(a)(15), who meet the following  
11 requirements:

12 1. Have resided in this state with a parent as defined  
13 in paragraph (1)(d) for at least 3 consecutive years  
14 immediately preceding the date the student received a high  
15 school diploma or its equivalent and have attended a high  
16 school in this state for at least 3 consecutive school years  
17 during such time.

18 2. Have provided to a public community college or a  
19 state university an affidavit stating that the student will  
20 file an application to become a permanent resident of the  
21 United States at the earliest opportunity he or she is  
22 eligible to do so.

23 (l) Active duty members of a foreign nation's military  
24 serving as liaison officers and residing or stationed in this  
25 state, and their spouses and dependent children, attending a  
26 community college or state university within 50 miles of the  
27 military establishment where they are stationed.

28 (11) The State Board of Education shall by rule  
29 designate classifications of students as residents or  
30 nonresidents for tuition purposes at community colleges and  
31 state universities.

1           Section 2. This act shall take effect July 1, 2003.

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3                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
4                               COMMITTEE SUBSTITUTE FOR  
5                               CS for SB 1852 & SB 1628 & SB 2344

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6 The original committee substitute classifies a student as a  
7 resident for tuition purposes under certain conditions,  
8 including whether the student has resided in the state for at  
9 least three consecutive years immediately preceding the date  
10 the student received a high school diploma or its equivalent,  
11 and has attended a high school in this state for at least  
12 three consecutive school years during such time. This  
13 committee substitute clarifies that such a student should have  
14 lived with his or her parent or legal guardian during the  
15 three consecutive years.

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