

By Senator Bennett

21-237A-04

See HB 241

1 A bill to be entitled
2 An act relating to postsecondary student fees;
3 amending s. 1009.21, F.S.; providing an
4 exemption from payment of nonresident tuition
5 and out-of-state fees for certain dependent
6 children of migrant farmworkers who meet
7 specified requirements; providing an effective
8 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 (11) A person who has attended a Florida high school
10 for at least 3 months per school year for 2 school years and
11 who is the dependent child of a migrant farmworker, as defined
12 in s. 381.008(4), shall be exempt from paying nonresident
13 tuition and out-of-state fees at community colleges and state
14 universities if the migrant farmworker parent has legal status
15 and is currently employed as a farmworker in the state.

16 (12)~~(11)~~ The State Board of Education shall by rule
17 designate classifications of students as residents or
18 nonresidents for tuition purposes at community colleges and
19 state universities.

20 Section 2. This act shall take effect July 1, 2004.
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