

By the Committee on Education; and Senators Wilson, Diaz de la Portilla and Campbell

304-2458-04

1                                   A bill to be entitled  
2           An act relating to resident status for tuition  
3           purposes; amending s. 1009.21, F.S.;  
4           classifying as residents for tuition purposes  
5           certain active duty members of a foreign  
6           nation's military, dependent children of  
7           certain active duty members of the United  
8           States Armed Services, and certain employees of  
9           international multilateral organizations;  
10          providing an exemption from payment of  
11          nonresident tuition at community colleges and  
12          state universities for certain students meeting  
13          eligibility criteria; reenacting s.  
14          1009.40(1)(a), F.S., relating to general  
15          requirements for eligibility for state  
16          financial aid, to incorporate the amendment to  
17          s. 1009.21, F.S., in a reference; providing an  
18          effective date.

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

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

24           1009.21 Determination of resident status for tuition  
25 purposes; exemption.--Students shall be classified as  
26 residents or nonresidents for the purpose of assessing tuition  
27 in community colleges and state universities.

28           (1) As used in this section:

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

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

5 (c) A "legal resident" or "resident" is a person who  
6 has maintained his or her residence in this state for the  
7 preceding year, has purchased a home which is occupied by him  
8 or her as his or her residence, or has established a domicile  
9 in this state pursuant to s. 222.17.

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

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

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

17 1. A person or, if that person is a dependent child,  
18 his or her parent or parents must have established legal  
19 residence in this state and must have maintained legal  
20 residence in this state for at least 12 months immediately  
21 prior to his or her qualification.

22 2. Every applicant for admission to an institution of  
23 higher education shall be required to make a statement as to  
24 his or her length of residence in the state and, further,  
25 shall establish that his or her presence or, if the applicant  
26 is a dependent child, the presence of his or her parent or  
27 parents in the state currently is, and during the requisite  
28 12-month qualifying period was, for the purpose of maintaining  
29 a bona fide domicile, rather than for the purpose of  
30 maintaining a mere temporary residence or abode incident to  
31 enrollment in an institution of higher education.

1           (b) However, with respect to a dependent child living  
2 with an adult relative other than the child's parent, such  
3 child may qualify as a resident for tuition purposes if the  
4 adult relative is a legal resident who has maintained legal  
5 residence in this state for at least 12 months immediately  
6 prior to the child's qualification, provided the child has  
7 resided continuously with such relative for the 5 years  
8 immediately prior to the child's qualification, during which  
9 time the adult relative has exercised day-to-day care,  
10 supervision, and control of the child.

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

17           (3) An individual shall not be classified as a  
18 resident for tuition purposes and, thus, shall not be eligible  
19 to receive the in-state tuition rate until he or she has  
20 provided such evidence related to legal residence and its  
21 duration as may be required by officials of the institution of  
22 higher education from which he or she seeks the in-state  
23 tuition rate.

24           (4) With respect to a dependent child, the legal  
25 residence of such individual's parent or parents is prima  
26 facie evidence of the individual's legal residence, which  
27 evidence may be reinforced or rebutted, relative to the age  
28 and general circumstances of the individual, by the other  
29 evidence of legal residence required of or presented by the  
30 individual. However, the legal residence of an individual  
31 whose parent or parents are domiciled outside this state is

1 not prima facie evidence of the individual's legal residence  
2 if that individual has lived in this state for 5 consecutive  
3 years prior to enrolling or reregistering at the institution  
4 of higher education at which resident status for tuition  
5 purposes is sought.

6 (5) In making a domiciliary determination related to  
7 the classification of a person as a resident or nonresident  
8 for tuition purposes, the domicile of a married person,  
9 irrespective of sex, shall be determined, as in the case of an  
10 unmarried person, by reference to all relevant evidence of  
11 domiciliary intent. For the purposes of this section:

12 (a) A person shall not be precluded from establishing  
13 or maintaining legal residence in this state and subsequently  
14 qualifying or continuing to qualify as a resident for tuition  
15 purposes solely by reason of marriage to a person domiciled  
16 outside this state, even when that person's spouse continues  
17 to be domiciled outside of this state, provided such person  
18 maintains his or her legal residence in this state.

19 (b) A person shall not be deemed to have established  
20 or maintained a legal residence in this state and subsequently  
21 to have qualified or continued to qualify as a resident for  
22 tuition purposes solely by reason of marriage to a person  
23 domiciled in this state.

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

28 (6) Any nonresident person, irrespective of sex, who  
29 marries a legal resident of this state or marries a person who  
30 later becomes a legal resident may, upon becoming a legal  
31 resident of this state, accede to the benefit of the spouse's

1 immediately precedent duration as a legal resident for  
2 purposes of satisfying the 12-month durational requirement of  
3 this section.

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

8 (8) A person who has been properly classified as a  
9 resident for tuition purposes but who, while enrolled in an  
10 institution of higher education in this state, loses his or  
11 her resident tuition status because the person or, if he or  
12 she is a dependent child, the person's parent or parents  
13 establish domicile or legal residence elsewhere shall continue  
14 to enjoy the in-state tuition rate for a statutory grace  
15 period, which period shall be measured from the date on which  
16 the circumstances arose that culminated in the loss of  
17 resident tuition status and shall continue for 12 months.  
18 However, if the 12-month grace period ends during a semester  
19 or academic term for which such former resident is enrolled,  
20 such grace period shall be extended to the end of that  
21 semester or academic term.

22 (9) Any person who ceases to be enrolled at or who  
23 graduates from an institution of higher education while  
24 classified as a resident for tuition purposes and who  
25 subsequently abandons his or her domicile in this state shall  
26 be permitted to reenroll at an institution of higher education  
27 in this state as a resident for tuition purposes without the  
28 necessity of meeting the 12-month durational requirement of  
29 this section if that person has reestablished his or her  
30 domicile in this state within 12 months of such abandonment  
31 and continuously maintains the reestablished domicile during

1 the period of enrollment. The benefit of this subsection shall  
2 not be accorded more than once to any one person.

3 (10) The following persons shall be classified as  
4 residents for tuition purposes:

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

10 (b) Active duty members of the Armed Services of the  
11 United States and their spouses and dependent children  
12 attending a public community college or state university  
13 within 50 miles of the military establishment where they are  
14 stationed, if such military establishment is within a county  
15 contiguous to Florida.

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

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

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

29 (f) Southern Regional Education Board's Academic  
30 Common Market graduate students attending Florida's state  
31 universities.

1 (g) Full-time employees of state agencies or political  
2 subdivisions of the state when the student fees are paid by  
3 the state agency or political subdivision for the purpose of  
4 job-related law enforcement or corrections training.

5 (h) McKnight Doctoral Fellows and Finalists who are  
6 United States citizens.

7 (i) United States citizens living outside the United  
8 States who are teaching at a Department of Defense Dependent  
9 School or in an American International School and who enroll  
10 in a graduate level education program which leads to a Florida  
11 teaching certificate.

12 (j) Active duty members of the Canadian military  
13 residing or stationed in this state under the North American  
14 Air Defense (NORAD) agreement, and their spouses and dependent  
15 children, attending a community college or state university  
16 within 50 miles of the military establishment where they are  
17 stationed.

18 (k) Active duty members of a foreign nation's military  
19 serving as liaison officers and residing or stationed in this  
20 state, and their spouses and dependent children, attending a  
21 community college or state university within 50 miles of the  
22 military establishment where they are stationed.

23 (l) Full-time employees of international multilateral  
24 organizations based in Florida which are recognized by the  
25 United States Department of State and their spouses and  
26 dependent children.

27 (11) A student, other than a nonimmigrant alien within  
28 the meaning of 8 U.S.C. s. 1101(a)(15), who meets all of the  
29 following requirements shall be exempt from paying nonresident  
30 tuition at community colleges and state universities:  
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1           (a) Has resided in Florida with a parent as defined in  
2 paragraph (1)(d) for at least 3 consecutive years immediately  
3 preceding the date the student received a high school diploma  
4 or its equivalent and has attended a Florida high school for  
5 at least 3 consecutive school years during such time.

6           (b) Has provided to a community college or a state  
7 university an affidavit stating that the student will file an  
8 application to become a permanent resident of the United  
9 States at the earliest opportunity he or she is eligible to do  
10 so.

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

15           Section 2. For the purpose of incorporating the  
16 amendment to section 1009.21, Florida Statutes, in a reference  
17 thereto, paragraph (a) of subsection (1) of section 1009.40,  
18 Florida Statutes, is reenacted to read:

19           1009.40 General requirements for student eligibility  
20 for state financial aid.--

21           (1)(a) The general requirements for eligibility of  
22 students for state financial aid awards consist of the  
23 following:

24           1. Achievement of the academic requirements of and  
25 acceptance at a state university or community college; a  
26 nursing diploma school approved by the Florida Board of  
27 Nursing; a Florida college, university, or community college  
28 which is accredited by an accrediting agency recognized by the  
29 State Board of Education; any Florida institution the credits  
30 of which are acceptable for transfer to state universities;  
31 any technical center; or any private technical institution



1 accredited by an accrediting agency recognized by the State  
2 Board of Education.

3         2. Residency in this state for no less than 1 year  
4 preceding the award of aid for a program established pursuant  
5 to s. 1009.50, s. 1009.51, s. 1009.52, s. 1009.53, s. 1009.54,  
6 s. 1009.56, s. 1009.57, s. 1009.60, s. 1009.62, s. 1009.63, s.  
7 1009.68, s. 1009.72, s. 1009.73, s. 1009.76, s. 1009.77, or s.  
8 1009.89. Residency in this state must be for purposes other  
9 than to obtain an education. Resident status for purposes of  
10 receiving state financial aid awards shall be determined in  
11 the same manner as resident status for tuition purposes  
12 pursuant to s. 1009.21 and rules of the State Board of  
13 Education.

14         3. Submission of certification attesting to the  
15 accuracy, completeness, and correctness of information  
16 provided to demonstrate a student's eligibility to receive  
17 state financial aid awards. Falsification of such information  
18 shall result in the denial of any pending application and  
19 revocation of any award currently held to the extent that no  
20 further payments shall be made. Additionally, students who  
21 knowingly make false statements in order to receive state  
22 financial aid awards shall be guilty of a misdemeanor of the  
23 second degree subject to the provisions of s. 837.06 and shall  
24 be required to return all state financial aid awards  
25 wrongfully obtained.

26         Section 3. This act shall take effect upon becoming a  
27 law.

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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                                    COMMITTEE SUBSTITUTE FOR  
3                                    Senate Bills 1228 and 2080  
4 Combines the provisions of Senate Bills 1228 and 2080.  
5 Provides resident status for purposes of assessing tuition in  
6 community colleges and state universities to:  
7                   active duty members of a foreign nation's military and  
8                   their spouses and dependent children, at schools within  
9                   50 miles of the military establishment where they are  
10                  stationed  
11                  full-time employees of recognized international  
12                  multilateral organizations based in Florida and their  
13                  spouses and dependent children  
14                  dependent children of U.S. Armed Services members who are  
15                  stationed in counties contiguous to Florida, at schools  
16                  within 50 miles of the military establishment where they  
17                  are stationed.  
18 Exempts any student from paying nonresident tuition, provided  
19 that the student has resided in Florida for 3 consecutive  
20 years with a parent, while attending a Florida high school,  
21 immediately prior to receiving a high school diploma or its  
22 equivalent and has provided an affidavit promising to file an  
23 application to become a permanent U.S. resident at the  
24 earliest opportunity.  
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