

By Senator Diaz de la Portilla

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A bill to be entitled
An act relating to determination of resident
status for tuition purposes; amending s.
1009.21, F.S.; classifying specified students
as residents for tuition purposes; providing an
effective date.

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

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

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

(1) As used in this section:

(a) The term "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.

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

(c) A "legal resident" or "resident" is 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 his or her residence, or has established a domicile
in this state pursuant to s. 222.17.

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

(e) A "resident for tuition purposes" is a person who
qualifies as provided in subsection (2) for the in-state

1 tuition rate; a "nonresident for tuition purposes" is a person
2 who does not qualify for the in-state tuition rate.

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

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

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

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

29 (c) The legal residence of a dependent child whose
30 parents are divorced, separated, or otherwise living apart
31 will be deemed to be this state if either parent is a legal

1 resident of this state, regardless of which parent is entitled
2 to claim, and does in fact claim, the minor as a dependent
3 pursuant to federal individual income tax provisions.

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

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

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

30 (a) A person shall not be precluded from establishing
31 or maintaining legal residence in this state and subsequently

1 qualifying or continuing to qualify as a resident for tuition
2 purposes solely by reason of marriage to a person domiciled
3 outside this state, even when that person's spouse continues
4 to be domiciled outside of this state, provided such person
5 maintains his or her legal residence in this state.

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

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

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

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

26 (8) A person who has been properly classified as a
27 resident for tuition purposes but who, while enrolled in an
28 institution of higher education in this state, loses his or
29 her resident tuition status because the person or, if he or
30 she is a dependent child, the person's parent or parents
31 establish domicile or legal residence elsewhere shall continue

1 to enjoy the in-state tuition rate for a statutory grace
2 period, which period shall be measured from the date on which
3 the circumstances arose that culminated in the loss of
4 resident tuition status and shall continue for 12 months.
5 However, if the 12-month grace period ends during a semester
6 or academic term for which such former resident is enrolled,
7 such grace period shall be extended to the end of that
8 semester or academic term.

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

21 (10) The following persons shall be classified as
22 residents for tuition purposes:

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

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

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

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

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

16 (f) Southern Regional Education Board's Academic
17 Common Market graduate students attending Florida's state
18 universities.

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

23 (h) McKnight Doctoral Fellows and Finalists who are
24 United States citizens.

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

30 (j) Active duty members of the Canadian military
31 residing or stationed in this state under the North American

1 Air Defense (NORAD) agreement, and their spouses and dependent
2 children, attending a community college or state university
3 within 50 miles of the military establishment where they are
4 stationed.

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

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

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

19 (11) The State Board of Education shall by rule
20 designate classifications of students as residents or
21 nonresidents for tuition purposes at community colleges and
22 state universities.

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

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SENATE SUMMARY

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Provides for a student to be classified as a resident for
28 tuition purposes if the student has resided in this state
29 for at least 3 consecutive years and files an affidavit
stating an intent to become a permanent resident.

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