

By Senator Diaz de la Portilla

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See HB 119

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 and certain employees of
7 international multilateral organizations;
8 providing an exemption from payment of
9 nonresident tuition at community colleges and
10 state universities for certain students meeting
11 eligibility criteria; reenacting s.
12 1009.40(1)(a), F.S., relating to general
13 requirements for eligibility for state
14 financial aid, to incorporate the amendment to
15 s. 1009.21, F.S., in a reference; providing an
16 effective date.

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

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20 Section 1. Section 1009.21, Florida Statutes, is
21 amended to read:
22 1009.21 Determination of resident status for tuition
23 purposes; exemption.--Students shall be classified as
24 residents or nonresidents for the purpose of assessing tuition
25 in community colleges and state universities.

26 (1) As used in this section:
27 (a) The term "dependent child" means any person,
28 whether or not living with his or her parent, who is eligible
29 to be claimed by his or her parent as a dependent under the
30 federal income tax code.

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

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

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

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

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

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

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

30 (b) However, with respect to a dependent child living
31 with an adult relative other than the child's parent, such

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

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

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

22 (4) With respect to a dependent child, the legal
23 residence of such individual's parent or parents is prima
24 facie evidence of the individual's legal residence, which
25 evidence may be reinforced or rebutted, relative to the age
26 and general circumstances of the individual, by the other
27 evidence of legal residence required of or presented by the
28 individual. However, the legal residence of an individual
29 whose parent or parents are domiciled outside this state is
30 not prima facie evidence of the individual's legal residence
31 if that individual has lived in this state for 5 consecutive

1 years prior to enrolling or reregistering at the institution
2 of higher education at which resident status for tuition
3 purposes is sought.

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

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

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

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

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

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1 purposes of satisfying the 12-month durational requirement of
2 this section.

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

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

21 (9) Any person who ceases to be enrolled at or who
22 graduates from an institution of higher education while
23 classified as a resident for tuition purposes and who
24 subsequently abandons his or her domicile in this state shall
25 be permitted to reenroll at an institution of higher education
26 in this state as a resident for tuition purposes without the
27 necessity of meeting the 12-month durational requirement of
28 this section if that person has reestablished his or her
29 domicile in this state within 12 months of such abandonment
30 and continuously maintains the reestablished domicile during
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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 attending a public community
12 college or state university within 50 miles of the military
13 establishment where they are stationed, if such military
14 establishment is within a county contiguous to Florida.

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

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

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

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

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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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