

By Senator Wilson

33-26A-05

1                                           A bill to be entitled

2           An act relating to resident status for purposes

3           of postsecondary tuition; amending s. 1009.21,

4           F.S.; providing an exemption from payment of

5           nonresident tuition at community colleges and

6           state universities for certain students meeting

7           eligibility criteria; amending s. 1009.40,

8           F.S., relating to general requirements for

9           eligibility for state financial aid; specifying

10          procedures for determining resident status for

11          purposes of receiving such awards; providing an

12          effective date.

13

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

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16           Section 1. Section 1009.21, Florida Statutes, is

17          amended to read:

18                   1009.21 Determination of resident status for tuition

19          purposes; exemption.--Students shall be classified as

20          residents or nonresidents for the purpose of assessing tuition

21          in community colleges and state universities.

22                   (1) As used in this section:

23                   (a) The term "dependent child" means any person,

24          whether or not living with his or her parent, who is eligible

25          to be claimed by his or her parent as a dependent under the

26          federal income tax code.

27                   (b) The term "institution of higher education" means

28          any public community college or state university.

29                   (c) A "legal resident" or "resident" is a person who

30          has maintained his or her residence in this state for the

31          preceding year, has purchased a home which is occupied by him

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

1 or her as his or her residence, or has established a domicile  
2 in this state pursuant to s. 222.17.

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

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

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

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

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

25 (b) However, with respect to a dependent child living  
26 with an adult relative other than the child's parent, such  
27 child may qualify as a resident for tuition purposes if the  
28 adult relative is a legal resident who has maintained legal  
29 residence in this state for at least 12 months immediately  
30 prior to the child's qualification, provided the child has  
31 resided continuously with such relative for the 5 years

1 immediately prior to the child's qualification, during which  
2 time the adult relative has exercised day-to-day care,  
3 supervision, and control of the child.

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

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

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

30 (5) In making a domiciliary determination related to  
31 the classification of a person as a resident or nonresident

1 for tuition purposes, the domicile of a married person,  
2 irrespective of sex, shall be determined, as in the case of an  
3 unmarried person, by reference to all relevant evidence of  
4 domiciliary intent. For the purposes of this section:

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

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

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

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

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

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

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

27           (10) The following persons shall be classified as  
28 residents for tuition purposes:

29           (a) Active duty members of the Armed Services of the  
30 United States residing or stationed in this state, their  
31 spouses, ~~and~~ and dependent children, and active members of the

1 Florida National Guard who qualify under s. 250.10(7) and (8)  
2 for the tuition assistance program.

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

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

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

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

22 (f) Southern Regional Education Board's Academic  
23 Common Market graduate students attending Florida's state  
24 universities.

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

29 (h) McKnight Doctoral Fellows and Finalists who are  
30 United States citizens.

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

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

12 (k) Active duty members of a foreign nation's military  
13 who are serving as liaison officers and are residing or  
14 stationed in this state, and their spouses and dependent  
15 children, attending a community college or state university  
16 within 50 miles of the military establishment where the  
17 foreign liaison officer is stationed.

18 (11) A student, other than a nonimmigrant alien within  
19 the meaning of 8 U.S.C. s. 1101(a)(15), shall be exempt from  
20 paying nonresident tuition at a community college or state  
21 university if the student:

22 (a) Has resided in this state with a parent as defined  
23 in paragraph (1)(d) for at least 3 consecutive years  
24 immediately preceding the date the student received a high  
25 school diploma or its equivalent and has attended a high  
26 school in this state for at least 3 consecutive school years  
27 during that time; and

28 (b) Has provided to a community college or a state  
29 university an affidavit stating that the student will file an  
30 application to become a permanent resident of the United  
31

1 States at the earliest opportunity he or she is eligible to do  
2 so.

3 ~~(12)~~~~(11)~~ The State Board of Education shall by rule  
4 designate classifications of students as residents or  
5 nonresidents for tuition purposes at community colleges and  
6 state universities.

7 Section 2. Paragraph (a) of subsection (1) of section  
8 1009.40, Florida Statutes, is amended to read:

9 1009.40 General requirements for student eligibility  
10 for state financial aid.--

11 (1)(a) The general requirements for eligibility of  
12 students for state financial aid awards consist of the  
13 following:

14 1. Achievement of the academic requirements of and  
15 acceptance at a state university or community college; a  
16 nursing diploma school approved by the Florida Board of  
17 Nursing; a Florida college, university, or community college  
18 which is accredited by an accrediting agency recognized by the  
19 State Board of Education; any Florida institution the credits  
20 of which are acceptable for transfer to state universities;  
21 any career center; or any private career institution  
22 accredited by an accrediting agency recognized by the State  
23 Board of Education.

24 2. Residency in this state for no less than 1 year  
25 preceding the award of aid for a program established pursuant  
26 to s. 1009.50, s. 1009.51, s. 1009.52, s. 1009.53, s. 1009.54,  
27 s. 1009.56, s. 1009.57, s. 1009.60, s. 1009.62, s. 1009.63, s.  
28 1009.68, s. 1009.72, s. 1009.73, s. 1009.76, s. 1009.77, or s.  
29 1009.89. Residency in this state must be for purposes other  
30 than to obtain an education. Resident status for purposes of  
31 receiving state financial aid awards shall be determined in



1 the same manner as resident status for tuition purposes  
2 pursuant to s. 1009.21(1)-(10) ~~s. 1009.21~~ and rules of the  
3 State Board of Education.

4           3. Submission of certification attesting to the  
5 accuracy, completeness, and correctness of information  
6 provided to demonstrate a student's eligibility to receive  
7 state financial aid awards. Falsification of such information  
8 shall result in the denial of any pending application and  
9 revocation of any award currently held to the extent that no  
10 further payments shall be made. Additionally, students who  
11 knowingly make false statements in order to receive state  
12 financial aid awards shall be guilty of a misdemeanor of the  
13 second degree subject to the provisions of s. 837.06 and shall  
14 be required to return all state financial aid awards  
15 wrongfully obtained.

16           Section 3. This act shall take effect upon becoming a  
17 law.

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20           SENATE SUMMARY

21           Provides an exemption from payment of nonresident tuition  
22 at community colleges and state universities for certain  
23 students who meet eligibility criteria. Specifies  
24 procedures for determining residential status for  
25 purposes of receiving state financial aid awards.  
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