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LEGISLATIVE ACTION

Senate	.	House
Comm: TP	.	
04/07/2010	.	
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The Committee on Higher Education (Smith) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

1009.21 Determination of resident status for tuition purposes.—Students shall be classified as residents or nonresidents for the purpose of assessing tuition in the Florida College System ~~community colleges~~ and the State University System ~~state universities~~.

(1) As used in this section, the term:



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13 (a) "Dependent child" means any person, whether or not
14 living with his or her parent, who is eligible to be claimed by
15 his or her parent as a dependent under the federal income tax
16 code.

17 (b) "Initial enrollment" means the first day of class at an
18 institution of higher education.

19 (c) "Institution of higher education" means any community
20 college as defined in s. 1000.21(3) or state university as
21 defined in s. 1000.21(6).

22 (d) "Legal resident" or "resident" means a person who has
23 maintained his or her residence in this state for the preceding
24 year, has purchased a home which is occupied by him or her as
25 his or her residence, or has established a domicile in this
26 state pursuant to s. 222.17.

27 (e) "Nonresident for tuition purposes" means a person who
28 does not qualify for the in-state tuition rate.

29 (f) "Parent" means the natural or adoptive parent or legal
30 guardian of a dependent child.

31 (g) "Resident for tuition purposes" means a person who
32 qualifies as provided in this section for the in-state tuition
33 rate.

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

35 1. A person or, if that person is a dependent child, his or
36 her parent or parents must have established legal residence in
37 this state and must have maintained legal residence in this
38 state for at least 12 consecutive months immediately prior to
39 his or her initial enrollment in an institution of higher
40 education.

41 2. Every applicant for admission to an institution of



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42 higher education shall be required to make a statement as to his
43 or her length of residence in the state and, further, shall
44 establish that his or her presence or, if the applicant is a
45 dependent child, the presence of his or her parent or parents in
46 the state currently is, and during the requisite 12-month
47 qualifying period was, for the purpose of maintaining a bona
48 fide domicile, rather than for the purpose of maintaining a mere
49 temporary residence or abode incident to enrollment in an
50 institution of higher education.

51 (b) However, with respect to a dependent child living with
52 an adult relative other than the child's parent, such child may
53 qualify as a resident for tuition purposes if the adult relative
54 is a legal resident who has maintained legal residence in this
55 state for at least 12 consecutive months immediately prior to
56 the child's initial enrollment in an institution of higher
57 education, provided the child has resided continuously with such
58 relative for the 4 ~~5~~ years immediately prior to the child's
59 initial enrollment in an institution of higher education, during
60 which time the adult relative has exercised day-to-day care,
61 supervision, and control of the child.

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

68 (3) (a) An individual shall not be classified as a resident
69 for tuition purposes and, thus, shall not be eligible to receive
70 the in-state tuition rate until he or she has provided such



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71 evidence related to legal residence and its duration or, if that
72 individual is a dependent child, evidence of his or her parent's
73 legal residence and its duration, as may be required by law and
74 by officials of the institution of higher education from which
75 he or she seeks the in-state tuition rate.

76 (b) Except as otherwise provided in this section, evidence
77 of legal residence and its duration shall include clear and
78 convincing documentation that residency in this state was for a
79 minimum of 12 consecutive months prior to a student's initial
80 enrollment in an institution of higher education.

81 (c) Each institution of higher education shall
82 affirmatively determine that an applicant who has been granted
83 admission to that institution as a Florida resident meets the
84 residency requirements of this section at the time of initial
85 enrollment. The residency determination must be documented by
86 the submission of written or electronic verification that
87 includes two or more of the documents identified in this
88 paragraph. No single piece of evidence shall be conclusive.

89 1. The documents must include at least one of the
90 following:

- 91 a. A Florida voter's registration card.
- 92 b. A Florida driver's license.
- 93 c. A State of Florida identification card.
- 94 d. A Florida vehicle registration.
- 95 e. Proof of a permanent home in Florida which is occupied
96 as a primary residence by the individual or by the individual's
97 parent if the individual is a dependent child.
- 98 f. Proof of a homestead exemption in Florida.
- 99 g. Transcripts from a Florida high school for multiple



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100 years if the Florida high school diploma or GED was earned
101 within the last 12 months.

102 h. Proof of permanent full-time employment in Florida for
103 at least 30 hours per week for a 12-month period.

104 2. The documents may include one or more of the following:

105 a. A declaration of domicile in Florida.

106 b. A Florida professional or occupational license.

107 c. Florida incorporation.

108 d. A document evidencing family ties in Florida.

109 e. Proof of membership in a Florida-based charitable or
110 professional organization.

111 f. Any other documentation that supports the student's
112 request for resident status, including, but not limited to,
113 utility bills and proof of 12 consecutive months of payments; a
114 lease agreement and proof of 12 consecutive months of payments;
115 or an official state, federal, or court document evidencing
116 legal ties to Florida.

117 (4) With respect to a dependent child, the legal residence
118 of the dependent child's parent or parents is prima facie
119 evidence of the dependent child's legal residence, which
120 evidence may be reinforced or rebutted, relative to the age and
121 general circumstances of the dependent child, by the other
122 evidence of legal residence required of or presented by the
123 dependent child. However, the legal residence of a dependent
124 child's parent or parents who are domiciled outside this state
125 is not prima facie evidence of the dependent child's legal
126 residence if that dependent child has lived in this state for 5
127 consecutive years prior to enrolling or reregistering at the
128 institution of higher education at which resident status for



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129 tuition purposes is sought.

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

136 (a) A person shall not be precluded from establishing or
137 maintaining legal residence in this state and subsequently
138 qualifying or continuing to qualify as a resident for tuition
139 purposes solely by reason of marriage to a person domiciled
140 outside this state, even when that person's spouse continues to
141 be domiciled outside of this state, provided such person
142 maintains his or her legal residence in this state.

143 (b) A person shall not be deemed to have established or
144 maintained a legal residence in this state and subsequently to
145 have qualified or continued to qualify as a resident for tuition
146 purposes solely by reason of marriage to a person domiciled in
147 this state.

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

152 (6) (a) Except as otherwise provided in this section, a
153 person who is classified as a nonresident for tuition purposes
154 may become eligible for reclassification as a resident for
155 tuition purposes if that person or, if that person is a
156 dependent child, his or her parent presents clear and convincing
157 documentation that supports permanent legal residency in this



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158 state for at least 12 consecutive months rather than temporary
159 residency for the purpose of pursuing an education, such as
160 documentation of full-time permanent employment for the prior 12
161 months or the purchase of a home in this state and residence
162 therein for the prior 12 months while not enrolled in an
163 institution of higher education.

164 (b) If a person who is a dependent child and his or her
165 parent move to this state while such child is a high school
166 student and the child graduates from a high school in this
167 state, the child may become eligible for reclassification as a
168 resident for tuition purposes when the parent submits evidence
169 that the parent qualifies for permanent residency.

170 (c) If a person who is a dependent child and his or her
171 parent move to this state after such child graduates from high
172 school, the child may become eligible for reclassification as a
173 resident for tuition purposes after the parent submits evidence
174 that he or she has established legal residence in the state and
175 has maintained legal residence in the state for at least 12
176 consecutive months.

177 (d) A person who is classified as a nonresident for tuition
178 purposes and who marries a legal resident of the state or
179 marries a person who becomes a legal resident of the state may,
180 upon becoming a legal resident of the state, become eligible for
181 reclassification as a resident for tuition purposes upon
182 submitting evidence of his or her own legal residency in the
183 state, evidence of his or her marriage to a person who is a
184 legal resident of the state, and evidence of the spouse's legal
185 residence in the state for at least 12 consecutive months
186 immediately preceding the application for reclassification.



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

191 (8) A person who has been properly classified as a resident
192 for tuition purposes but who, while enrolled in an institution
193 of higher education in this state, loses his or her resident
194 tuition status because the person or, if he or she is a
195 dependent child, the person's parent or parents establish
196 domicile or legal residence elsewhere shall continue to enjoy
197 the in-state tuition rate for a statutory grace period, which
198 period shall be measured from the date on which the
199 circumstances arose that culminated in the loss of resident
200 tuition status and shall continue for 12 months. However, if the
201 12-month grace period ends during a semester or academic term
202 for which such former resident is enrolled, such grace period
203 shall be extended to the end of that semester or academic term.

204 (9) Any person who ceases to be enrolled at or who
205 graduates from an institution of higher education while
206 classified as a resident for tuition purposes and who
207 subsequently abandons his or her domicile in this state shall be
208 permitted to reenroll at an institution of higher education in
209 this state as a resident for tuition purposes without the
210 necessity of meeting the 12-month durational requirement of this
211 section if that person has reestablished his or her domicile in
212 this state within 12 months of such abandonment and continuously
213 maintains the reestablished domicile during the period of
214 enrollment. The benefit of this subsection shall not be accorded
215 more than once to any one person.



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216 (10) The following persons shall be classified as residents
217 for tuition purposes:

218 (a) Active duty members of the Armed Services of the United
219 States residing or stationed in this state, their spouses, and
220 dependent children, and active drilling members of the Florida
221 National Guard.

222 (b) Active duty members of the Armed Services of the United
223 States and their spouses and dependents attending a public
224 community college or state university within 50 miles of the
225 military establishment where they are stationed, if such
226 military establishment is within a county contiguous to Florida.

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

231 (d) Full-time instructional and administrative personnel
232 employed by state public schools and institutions of higher
233 education and their spouses and dependent children.

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

238 (f) Southern Regional Education Board's Academic Common
239 Market graduate students attending Florida's state universities.

240 (g) Full-time employees of state agencies or political
241 subdivisions of the state when the student fees are paid by the
242 state agency or political subdivision for the purpose of job-
243 related law enforcement or corrections training.

244 (h) McKnight Doctoral Fellows and Finalists who are United



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245 States citizens.

246 (i) United States citizens living outside the United States
247 who are teaching at a Department of Defense Dependent School or
248 in an American International School and who enroll in a graduate
249 level education program which leads to a Florida teaching
250 certificate.

251 (j) Active duty members of the Canadian military residing
252 or stationed in this state under the North American Air Defense
253 (NORAD) agreement, and their spouses and dependent children,
254 attending a community college or state university within 50
255 miles of the military establishment where they are stationed.

256 (k) Active duty members of a foreign nation's military who
257 are serving as liaison officers and are residing or stationed in
258 this state, and their spouses and dependent children, attending
259 a community college or state university within 50 miles of the
260 military establishment where the foreign liaison officer is
261 stationed.

262 (11) Once a student has been classified as a resident for
263 tuition purposes, an institution of higher education to which
264 the student transfers is not required to reevaluate the
265 classification unless inconsistent information suggests that an
266 erroneous classification was made or the student's situation has
267 changed; however, the student must have attended the institution
268 making the initial classification within the last 12 months and
269 the residency classification must be noted on the student's
270 transcript.

271 (12)~~(11)~~ Each institution of higher education shall
272 establish a residency appeal committee comprised of at least
273 three members to consider student appeals of residency



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274 determinations, in accordance with the institution's official
275 appeal process. The residency appeal committee must render to
276 the student the final residency determination in writing. The
277 institution must advise the student of the reasons for the
278 determination.

279 (13) ~~(12)~~ The State Board of Education and the Board of
280 Governors shall adopt rules to implement this section.

281 Section 2. This act shall take effect July 1, 2010.

282

283 ===== T I T L E A M E N D M E N T =====

284 And the title is amended as follows:

285 Delete everything before the enacting clause
286 and insert:

287 A bill to be entitled
288 An act relating to the determination of resident
289 status for tuition purposes; amending s. 1009.21,
290 F.S.; conforming terms to match the official names of
291 Florida's higher education systems; revising a
292 residency requirement for certain dependent children;
293 providing requirements for recognition of the
294 classification of a student as a resident for tuition
295 purposes by an institution of higher education to
296 which a student transfers; providing an effective
297 date.