

By: Howard of Fort Bend

H.B. No. 4482

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a requirement of lawful presence in the United States
3 for receipt of state educational benefits and to the determination
4 of resident status of students by public institutions of higher
5 education.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subchapter Z, Chapter 51, Education Code, is
8 amended by adding Section 51.954 to read as follows:

9 Sec. 51.954. STATE EDUCATIONAL BENEFITS: LAWFUL PRESENCE
10 IN UNITED STATES REQUIRED. (a) Notwithstanding any other
11 provision of this title, except as authorized under Sections 54.052
12 and 54.053, a person who is not lawfully authorized to be present in
13 the United States is not considered to be a resident of this state
14 for purposes of:

15 (1) receiving from this state an educational benefit,
16 including a scholarship or other financial aid, for use in
17 attending a public or private institution of higher education; or

18 (2) determining the amount of tuition or fees charged
19 to the person by a public institution of higher education.

20 (b) The Texas Higher Education Coordinating Board shall
21 adopt rules as necessary to administer this section.

22 SECTION 2. Section 54.052, Education Code, is amended to
23 read as follows:

24 Sec. 54.052. DETERMINATION OF RESIDENT STATUS. (a)

1 Subject to the other applicable provisions of this subchapter
2 governing the determination of resident status, the following
3 persons are considered residents of this state for purposes of this
4 title:

5 (1) a person who:

6 (A) established a domicile in this state not
7 later than one year before the census date of the academic term in
8 which the person is enrolled in an institution of higher education;
9 and

10 (B) maintained that domicile continuously for
11 the year preceding that census date; and

12 (2) a dependent whose parent:

13 (A) established a domicile in this state not
14 later than one year before the census date of the academic term in
15 which the dependent is enrolled in an institution of higher
16 education; and

17 (B) maintained that domicile continuously for
18 the year preceding that census date.

19 (a-1) The Texas Higher Education Coordinating Board may
20 adopt rules as the board considers appropriate under which a person
21 who enrolls as a first-time freshman in an institution of higher
22 education after the 2008-2009 academic year is considered to be a
23 resident of this state for purposes of this title if the person:

24 (1) graduated from a public or private high school in
25 this state;

26 (2) attended a public or private high school in this
27 state for the two school years, or the equivalent number of

1 semesters if the person did not graduate at the end of a school
2 year, preceding the date of graduation;

3 (3) maintained a residence continuously in this state
4 for:

5 (A) the period prescribed by Subdivision (2); and

6 (B) the year preceding the census date of the
7 academic term in which the person is enrolled in an institution of
8 higher education; and

9 (4) is a dependent and maintained that residence
10 continuously with a parent of the person for the period prescribed
11 by Subdivision (2).

12 (a-2) Subject to the other applicable provisions of this
13 subchapter governing the determination of resident status, ~~and~~

14 ~~(3)~~ a person who enrolled as a first-time freshman
15 in an institution of higher education before the 2009-2010 academic
16 year is considered to be a resident of this state for purposes of
17 this title if the person:

18 (1) ~~(A)~~ graduated from a public or private high
19 school in this state or received the equivalent of a high school
20 diploma in this state; and

21 (2) ~~(B)~~ maintained a residence continuously in this
22 state for:

23 (A) ~~(i)~~ the three years preceding the date of
24 graduation or receipt of the diploma equivalent, as applicable; and

25 (B) ~~(ii)~~ the year preceding the census date of
26 the academic term in which the person is enrolled in an institution
27 of higher education.

1 (b) For purposes of this section, the domicile of a
2 dependent's parent is presumed to be the domicile of the dependent
3 unless the person establishes eligibility for resident status under
4 Subsection (a-1) or (a-2) [~~(a)(3)~~].

5 SECTION 3. Section 54.053, Education Code, is amended to
6 read as follows:

7 Sec. 54.053. INFORMATION REQUIRED TO ESTABLISH RESIDENT
8 STATUS; EFFECT OF STATUS ON ELIGIBILITY FOR STATE FINANCIAL
9 AID. (a) A person must [~~shall~~] submit the following information
10 to an institution of higher education to establish resident status
11 under this subchapter:

12 (1) if the person applies for resident status under
13 Section 54.052(a)(1):

14 (A) a statement of the dates and length of time
15 the person has resided in this state, as relevant to establish
16 resident status under this subchapter; and

17 (B) a statement by the person that the person's
18 presence in this state for that period was for a purpose of
19 establishing and maintaining a domicile;

20 (2) if the person applies for resident status under
21 Section 54.052(a)(2):

22 (A) a statement of the dates and length of time
23 any parent of the person has resided in this state, as relevant to
24 establish resident status under this subchapter; and

25 (B) a statement by the parent or, if the parent is
26 unable or unwilling to provide the statement, a statement by the
27 person that the parent's presence in this state for that period was

1 for a purpose of establishing and maintaining a domicile; or

2 (3) if the person applies for resident status under
3 Section 54.052 (a-1) or (a-2) [~~(a)(3)~~]:

4 (A) a statement of the dates and length of time
5 the person has resided in this state, as relevant to establish
6 resident status under this subchapter; [~~and~~]

7 (B) if the person is a dependent, a statement of
8 the dates and length of time the person has resided in this state
9 with a parent of the person, as relevant to establish resident
10 status under this subchapter; and

11 (C) except as permitted by Subsection (b),
12 appropriate documentation that the person:

13 (i) is a citizen of the United States or is
14 otherwise lawfully authorized to be present in the United States;
15 or

16 (ii) has filed an application or petition
17 with the United States Citizenship and Immigration Services to
18 legalize the person's immigration status.

19 (b) A person may substitute for the documentation required
20 by Subsection (a)(3)(C) [~~not a citizen or permanent resident of the~~
21 United States,] an affidavit stating that the person will apply or
22 petition to legalize the person's immigration status when [~~become a~~
23 ~~permanent resident of the United States as soon as~~] the person
24 becomes eligible to so apply or petition and that the person
25 understands that for the purposes of this subsection the person
26 must apply or petition on or before:

27 (1) the first anniversary of the date of the person's

1 enrollment at the institution if a formal process exists for the
2 person to apply or petition to legalize immigration status without
3 risk of deportation; or

4 (2) the first anniversary of the date the United
5 States Citizenship and Immigration Services provides such a process
6 if Subdivision (1) does not apply to the person when the person
7 applies for resident status.

8 (c) To retain resident status established in accordance
9 with rules adopted under Section 54.052(a-1), a person who files an
10 affidavit as permitted by Subsection (b) must submit to the
11 institution of higher education, not later than the 30th day after
12 the federal application or petition is filed, appropriate
13 documentation that the person has timely filed an application or
14 petition with the United States Citizenship and Immigration
15 Services to legalize the person's immigration status.

16 (d) An institution of higher education shall maintain in a
17 person's student records a copy of each document submitted by the
18 person under this section.

19 (e) A person is not prohibited by Section 51.954 from
20 receiving state financial aid, including a scholarship, if the
21 person:

22 (1) is considered to be a resident of this state under
23 Section 54.052; and

24 (2) submits the appropriate documentation required by
25 Subsection (a)(3)(C)(i) or (ii).

26 SECTION 4. The Texas Higher Education Coordinating Board
27 shall adopt any rules necessary under Section 51.954, Education

1 Code, as added by this Act, relating to requiring lawful presence in
2 the United States as a condition for receiving state educational
3 benefits and paying tuition and fees at resident rates, and any
4 rules necessary to carry out the purposes of Sections 54.052 and
5 54.053, Education Code, as amended by this Act, relating to the
6 establishment of resident status, as soon as practicable after this
7 Act takes effect. For that purpose, the coordinating board may
8 adopt the initial rules in the manner provided by law for emergency
9 rules.

10 SECTION 5. Section 51.954, Education Code, as added by this
11 Act, applies beginning with state educational benefits and tuition
12 and fee rates for the 2009 fall semester.

13 SECTION 6. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2009.