

By: Cain

H.B. No. 1387

A BILL TO BE ENTITLED

AN ACT

1
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 IN
10 UNITED STATES REQUIRED. (a) Notwithstanding any other provision
11 of this title, a person who is not authorized by law to be present in
12 the United States is not considered to be a resident of this state
13 for purposes of:

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

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

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

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

23 Sec. 54.052. DETERMINATION OF RESIDENT STATUS. (a)
24 Subject to the other applicable provisions of this subchapter

1 governing the determination of resident status, the following
2 persons are considered residents of this state for purposes of this
3 title:

4 (1) a person who:

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

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

11 (2) a dependent whose parent:

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

16 (B) maintained that domicile continuously for
17 the year preceding that census date [~~, and~~

18 ~~[(3) a person who:~~

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

22 ~~[(B) maintained a residence continuously in this~~
23 ~~state for:~~

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

26 ~~[(ii) the year preceding the census date of~~
27 ~~the academic term in which the person is enrolled in an institution~~

1 ~~of higher education~~].

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

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

8 Sec. 54.053. INFORMATION REQUIRED TO ESTABLISH RESIDENT
9 STATUS. A person shall submit the following information to an
10 institution of higher education to establish resident status under
11 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; or

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)(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 not a citizen or permanent~~
8 ~~resident of the United States, an affidavit stating that the person~~
9 ~~will apply to become a permanent resident of the United States as~~
10 ~~soon as the person becomes eligible to apply].~~

11 SECTION 4. The Texas Higher Education Coordinating Board
12 shall adopt any rules necessary under Section 51.954, Education
13 Code, as added by this Act, relating to requiring authorization by
14 law to be present in the United States as a condition for receiving
15 state educational benefits and paying tuition and fees at resident
16 rates as soon as practicable after this Act takes effect. For that
17 purpose, the coordinating board may adopt the initial rules in the
18 manner provided by law for emergency rules.

19 SECTION 5. Section 51.954, Education Code, as added by this
20 Act, applies beginning with state educational benefits and tuition
21 and fee rates for the 2011 fall semester.

22 SECTION 6. Notwithstanding Subchapter B, Chapter 54,
23 Education Code, a public institution of higher education in this
24 state may, for any semester or academic term, before the beginning
25 of that semester or academic term, reclassify as a nonresident a
26 student classified as a resident of this state by the institution or
27 another public institution of higher education in this state under

1 Section 54.052(a)(3), Education Code, as that section existed
2 before amendment by this Act, if the student is not otherwise
3 eligible to be classified as a resident of this state under
4 Subchapter B, Chapter 54, Education Code.

5 SECTION 7. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2011.