STATE OF NEW YORK

8403--A

2023-2024 Regular Sessions

IN ASSEMBLY

December 13, 2023

Introduced by M. of A. FORREST -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to tuition rates for certain students who are not residents of the state but who have resided in the state for a certain period of time

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subparagraph 8 of paragraph h of subdivision 2 of section 355 of the education law, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

(8) Such regulations shall further provide that the payment of tuition and fees by any student who is not a resident of New York state[~~, other than a non-immigrant noncitizen within the meaning of paragraph (15) of subsection (a) of section 1101 of title 8 of the United States Code,~~] shall be paid at a rate or charge no greater than that imposed for students who are residents of the state if such student[~~:~~

~~(i) attended an approved New York high school for two or more years, graduated from an approved New York high school and applied for attendance at an institution or educational unit of the state university within five years of receiving a New York state high school diploma; or~~

~~(ii) attended an approved New York state program for general equivalency diploma exam preparation, received a general equivalency diploma issued within New York state and applied for attendance at an institution or educational unit of the state university within five years of receiving a general equivalency diploma issued within New York state; or~~

~~(iii) was enrolled in an institution or educational unit of the state university in the fall semester or quarter of the two thousand one--two thousand two academic year and was authorized by such institution or~~

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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~~educational unit to pay tuition at the rate or charge imposed for students who are residents of the state.~~

~~A student without lawful immigration status shall also be required to file an affidavit with such institution or educational unit stating that the student has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so~~] **has resided in the state for a period of at least one year and in the county, city, town, intermediate school district, school district or community college region, as the case may be, for a period of at least six months, both immediately preceding the date of such person's registration in a state-operated institution, a statutory or contract college, a community college, or such student's application for a certificate of residence**.

§ 2. Subdivision 5 of section 6301 of the education law, as amended by chapter 327 of the laws of 2002, the opening paragraph as amended by chapter 669 of the laws of 2022, is amended to read as follows:

5. "Resident." A person who has resided in the state for a period of at least one year and in the county, city, town, intermediate school district, school district or community college region, as the case may be, for a period of at least six months, [~~both~~] **or whichever is earlier,** immediately preceding the date of such person's registration in a **state-operated institution, a statutory or contract college, or a** community college or, for the purposes of section sixty-three hundred five of this article, [~~his or her~~] **such person's** application for a certificate of residence[~~; provided, however, that this term shall include any student who is not a resident of New York state, other than a non-immigrant noncitizen within the meaning of paragraph (15) of subsection (a) of section 1101 of title 8 of the United States Code, if such student:~~

~~(i) attended an approved New York high school for two or more years, graduated from an approved New York high school and applied for attendance at an institution or educational unit of the state university within five years of receiving a New York state high school diploma; or~~

~~(ii) attended an approved New York state program for general equivalency diploma exam preparation, received a general equivalency diploma issued within New York state and applied for attendance at an institution or educational unit of the state university within five years of receiving a general equivalency diploma issued within New York state; or~~

~~(iii) was enrolled in an institution or educational unit of the state university in the fall semester or quarter of the two thousand one--two thousand two academic year and was authorized by such institution or educational unit to pay tuition at the rate or charge imposed for students who are residents of the state.~~

~~Provided, further, that a student without lawful immigration status shall also be required to file an affidavit with such institution or educational unit stating that the student has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so~~]**. The term "resident" shall also include a person who has resided in the county, city, town, intermediate school district, school district or community college region, as the case may be, for a period of at least six months immediately preceding the date of such person's registration in a state-operated institution, a statutory or contract college, a community college, or such person's application for a certificate of residence and the date of such person's registration in a state-operated institution, a statutory or contract college, or a community college or, for the purposes of section sixty-three hundred five of this article, such person's application for**

a certificate of residence if such person can show the following documentation:

(i) an employment authorization document (EAD or work permit) (I-766) with the following codes: (A)(3) for refugee, (A)(5) for asylee, and (A)(10) for withholding of deportation or removal;

(ii) an I-94 arrival/departure record with an employment authorization stamp and the notation "asylum granted" or "refugee granted"; and

(iii) a decision from the United States citizenship and immigration services or the immigration judge granting asylum or withholding of deportation or removal.

In the event that a person qualified as above for state residence, but has been a resident of two or more counties in the state during the six months immediately preceding [~~his~~] such person's application for a certificate of residence pursuant to section sixty-three hundred five of this chapter, the charges to the counties of residence shall be allocated among the several counties proportional to the number of months, or major fraction thereof, of residence in each county.

§ 3. This act shall take effect immediately.