In order to facilitate voluntary resolution of worker classification issues and achieve the benefits of increased tax compliance and certainty for taxpayers, to enact the Fresh Start Proper Worker Classification Initiative to provide relief from Louisiana withholding taxes and unemployment taxes for eligible taxpayers that agree to prospectively treat workers as employees; to provide for definitions; to require the Louisiana Department of Revenue and Louisiana Workforce Commission to establish a program as provided for in this Act; to provide for terms and conditions of the program; to provide for the disposition of the monies collected from the program; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. This Act shall be known as and may be cited as the “Fresh Start Proper Worker Classification Initiative”.

Section 2. Definitions. As used in this Act, the following terms have the meaning ascribed to them in this Section, except when the context clearly indicates otherwise:

(1)
(2)
(3)
Section 3. Fresh Start - Withholding Taxes and Unemployment Taxes. The Fresh Start Proper Worker Classification Initiative is optional and provides taxpayers with an opportunity to voluntarily reclassify their workers as employees for future tax periods with no withholding or unemployment tax liability for the past nonemployee treatment. To participate, the taxpayer must meet certain eligibility requirements, apply to participate in the Fresh Start Proper Worker Classification Initiative, and enter into a joint closing agreement with the Department of Revenue and Louisiana Workforce Commission.

(A) Eligibility. The Fresh Start Proper Worker Classification Initiative is available for taxpayers who want to voluntarily change the prospective classification of their workers. The program applies to taxpayers who are currently treating their workers (or a class of workers) as independent contractors or other nonemployees and want to prospectively treat the workers as employees unless the taxpayer is ineligible under Subsection ____. To be eligible, a taxpayer must have consistently treated the workers as nonemployees, and must have filed all required Forms 1099-NECs with the Internal Revenue Service with respect to those workers, consistent with the nonemployee treatment, for the previous three years with respect to the workers to be reclassified.

(B) Application Process. Eligible taxpayers who wish to participate in the Fresh Start Proper Worker Classification Initiative must submit an application for participation in the program using Form __________, Application for Fresh Start Proper Worker Classification
Initiative, to the Department of Revenue. The Department of Revenue will contact the taxpayer or authorized representative to complete the process once it has reviewed the application and verified the taxpayer’s eligibility. Taxpayers whose application has been accepted enter into a joint closing agreement with the Department of Revenue and Louisiana Workforce Commission whereby the taxpayer confirms the agreement to treat the class or classes of workers identified in the application as employees on the date on which the taxpayer’s receives notice from the Department of Revenue that the taxpayer’s application for participation in the Fresh Start Proper Worker Classification Initiative has been accepted and is not liable for any withholding tax, unemployment tax, interest or penalties with respect to any amounts paid to any the class or classes of workers identified in the application as employees prior to the date on which notice of acceptance is received by the taxpayer.

(D) Ineligible employers. The following employers, as that term is defined in R.S. 47:____, shall not be eligible to participate in the program:

1) Employers who are currently under audit concerning the classification of the classes of workers by the Internal Revenue Service, the U.S. Department of Labor or by a state government entity.

2) Employers who are contesting in court the classification of the class or classes of workers from a previous audit by the IRS, the U.S. Department of Labor, the Department of Revenue or the Louisiana Workforce Commission;

3) For the purposes of subparagraphs (A) and (B), above, a taxpayer that is a member of an affiliated group within the meaning of section 1504(a) of the Internal Revenue Code is considered to be under employment, withholding or unemployment tax audit for purposes of the Fresh Start Proper Worker Classification Initiative if any member of the affiliated group is under such tax audit.

4) Employers who have withheld Louisiana state income taxes from the amounts paid to any worker, and who have not remitted such tax to the Louisiana Department of Revenue.
Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.