

**RULE CHAPTER 69L-5**

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### **69L-5.201 Definitions**

When used in these rules, the following words or terms shall mean:

(1) "Actuarial Report" – A report signed by a member of the American Academy of Actuaries providing an opinion of the appropriate present value of the self-insured reserves incurred in this state, using a four percent (4%) discount rate, for current and future claims.

(2) "Affiliated Self-Insurer" – Two or more entities affiliated by common majority ownership, which do not have a parent company to hold the self-insurance authorization, and which are approved by the Department to fund their workers' compensation liabilities as prescribed in Section 440.38(1)(b), F.S.

- (3) "Alien Corporation" – A corporation formed under the laws of any country other than the United States.
- (4) "A. M. Best Company" – An organization recognized by the U.S. Securities and Exchange Commission as a nationally recognized statistical rating organization whose ratings are permitted to be used for regulatory purposes.

**\*\* ALPHABETICALLY, THIS SHOULD BE FIRST\*\***

- (5) "Anniversary Rating Date" – The effective month and day of the beginning of the self-insurance authorization and each anniversary thereafter unless a different date is established.
- (6) "Association" – The Florida Self-Insurers Guaranty Association, Inc.
- (7) "Authorized Representative" – An individual or company authorized by the Division to operate on behalf of the Division; or an individual or company authorized by the Association to operate on behalf of the Association.
- (xx) "Credit Rating" – A long-term issuer credit rating issued by Moody's Investors Service, Standard & Poor's or Fitch Ratings. A credit rating assigned to a specific debt issue is not an acceptable substitute for a long-term issuer credit rating.
- (8) "Current Self-Insurer" – An employer authorized by the Department to fund its workers' compensation liabilities as prescribed in Section 440.38(1)(b) or (6), F.S., whose authorization to self insure has not been revoked or voluntarily terminated.
- (9) "Department" – Florida Department of Financial Services.
- (10) "Division" – The Division of Workers' Compensation within the Florida Department of Financial Services.
- (11) "F. A. C." – Florida Administrative Code.
- (xx) "F. S." – Florida Statutes.
- (12) "FSIGA Member" – A Current Self-Insurer or Former Self-Insurer authorized by the Department as defined in Sections 440.02(24)(a) and 440.38(1)(b), F.S., other than self-insurers which are Public Utilities or Governmental Entities.
- (13) "Financial Statement(s)" – A presentation of financial data, including accompanying notes, derived from accounting records that purports to show financial position and intended to communicate an entity's economic resources or obligations at a point in time, and the results of operations and cash flows for a period of time, in accordance with Generally Accepted Accounting Principles.

(14) "Former Self-Insurer" – An employer authorized by the Department to fund its workers' compensation liabilities as prescribed in Section 440.38(1)(b) or (6), F.S., whose authorization has been revoked or voluntarily terminated with remaining outstanding workers' compensation liabilities.

(15) "Generally Accepted Accounting Principles" – Accounting principles generally accepted in the United States of America in effect as of June 1, 2006, including, but not limited to, Accounting Principles Board Opinions Nos. 1 to 31 as published by the American Institute of Certified Public Accountants, and statements of accounting standards and interpretations thereof, as published by the Financial Accounting Standards Board (FASB). These materials are entitled Original Pronouncements 2006/2007 Edition, vols. I, II, & III, dated June 1, 2006, and available from FASB, 401 Merritt 7, P.O. Box 5116, Norwalk, CT 06856-5116, 1(800)748-0659, <http://www.fasb.org>.

(16) "Generally Accepted Auditing Standards" – Auditing standards generally accepted in the United States of America in effect as of January 1, 2007, including, but not limited to, general, field work and reporting standards approved and adopted by the membership of the American Institute of Certified Public Accountants (AICPA), as amended by the AICPA Auditing Standards Board (ASB), standards promulgated by the ASB in the form of Statements on Auditing Standards and standards promulgated by the Public Company Accounting Oversight Board (PCAOB). The AICPA materials are entitled Codification of Statements on Auditing Standards, dated January 1, 2007, available from the AICPA at <http://www.cpa2biz.com> or call 1(888)777-7077. The rules and standards of the PCAOB are available at no charge at <http://www.pcaobus.org>.

(17) "Governmental Entity" - The state and its boards, bureaus, departments, and agencies and all of its political subdivisions which employ labor, and the state universities, pursuant to Section 440.38(6), F.S.

(xx) "Investment Grade Credit Rating" – A long-term issuer credit rating equal to or higher than "Baa3", "BBB", or "BBB", issued by Moody's Investors Service, Standard & Poor's or Fitch Ratings, respectively. A credit rating assigned to a specific debt issue is not an acceptable substitute for a long-term issuer credit rating.

(18) "Manual Premium" – Premium determined by multiplying the payroll (segregated into the proper workers' compensation job classifications) times the manual rates per \$100 of payroll in effect at the start of the payroll period covered, as defined in the NCCI Basic Manual for Workers' Compensation and Employers' Liability Insurance that has been filed and approved by the Florida Office of Insurance Regulation.

(19) "NCCI" – The National Council on Compensation Insurance, Inc.

(20) "Net Worth" – Stockholders' equity, owners' equity or net assets as shown on the balance sheet of the Financial Statements.

(21) "Public Utility" – Every person, corporation, partnership, association or other legal entity and their lessees, trustees, or receivers appointed by any court whatsoever and every political subdivision in the state supplying electricity, gas or telecommunication to or for the public within this state as defined in Sections 364.02(12) and 366.02(1), F.S.

(22) "Qualified Servicing Entity" – Any company approved by the Division to adjust and submit workers' compensation claims to the Division and/or provide safety services and loss control on behalf of the self-insurer.

(23) "Security Deposit" – A security deposit conforming to the requirements of Section 440.38(1)(b)4, F.S.

(24) "Specific Excess Insurance Policy" – A specific excess workers' compensation insurance policy approved by the Florida Office of Insurance Regulation which provides for the actual transfer of risk to the excess carrier.

(25) "Standard Premium" – Manual premium multiplied by the experience modification factor, as defined in the NCCI Basic Manual for Workers' Compensation and Employers' Liability Insurance that has been filed and approved by the Florida Office of Insurance Regulation.

(26) "Successor Entity" – Any person, business entity, or group of persons or business entities, which holds or acquires legal or beneficial title to the majority of the assets or the majority of the shares of a Current Self-Insurer or Former Self-Insurer, pursuant to Chapter 440, F.S.

(27) "Underwriting" – Includes, but is not limited to, the overall planning and coordinating of the self-insurance program, the ability to procure surety bonds and excess insurance, the ability to provide summary data regarding the cost of providing benefits, including the frequency and distribution by type and cause, and the skill to make recommendations to the self-insurer regarding the correction of any deficiencies that arise. \*\*TERM "UNDERWRITING" NOT REFERENCED IN RULE\*\*

#### **69L-5.202 Scope of Self-Insurance Authorization**

(1) Approval of a self-insurance authorization in accordance with Section 440.38, F.S., and these rules will be continuous unless and until revoked or voluntarily terminated.

(2) The self-insurance authorization of a Current Self-Insurer is restricted to the authorization holder and it's wholly or majority owned subsidiaries.

(3) Where the Current Self-Insurer is an Affiliated Self-Insurer, the self-insurance authorization is restricted to entities affiliated by common majority ownership and their wholly or majority owned subsidiaries.

## **UNIVERSAL REQUIREMENTS**

### **Required Filings, Records Maintenance and Audit**

#### **69L-5.203 Payroll Reporting**

Current Self-Insurers shall report payroll data for all entities covered under the self-insurance authorization using Form DFS-F2-SI-5 (Self-Insurers Payroll Report). Failure to submit the required payroll reports, understatement or concealment of payroll, or the misrepresentation of employee duties so as to avoid proper classification shall constitute good cause for revocation of the self-insurance authorization in addition to civil penalties specified in Rule Chapter 69L-5.216, F.A.C.

(1) Current Self-Insurers and Former Self-Insurers shall complete Form DFS-F2-SI-5 by submitting payroll by classification code for the latest completed period beginning on the Anniversary Rating Date.

(2) Former Self-Insurers shall submit this report until the final payroll period has been reported.

(3) Current Self-Insurers shall submit Form DFS-F2-SI-5 no later than sixty (60) days after their Anniversary Rating Date. Former Self-Insurers shall submit their final DFS-F2-SI-5 no later than ninety (90) days after the revocation or voluntary termination of the self-insurance authorization.

(1) Governmental Entities and Public Utilities shall submit Form DFS-F2-SI-5 to the:

Department of Financial Services  
Division of Workers' Compensation  
Bureau of Monitoring and Audit/Self-Insurance  
200 East Gaines Street  
Tallahassee, Florida 32399-4224

(2) FSIGA Members shall submit Form DFS-F2-SI-5 to the:

Florida Self-Insurers Guaranty Association, Inc.  
1427 E. Piedmont Dr., 2<sup>nd</sup> Floor  
Tallahassee, Florida 32308

**69L-5.204 Maintenance of Payroll Records, Review and Audit**

(1) The payroll records of all Current Self-Insurers and Former Self-Insurers shall be open for inspection and audit by the Division, or its Authorized Representative, during regular business hours. Self-insurers are required to maintain payroll records that reflect a true and accurate division by the classification codes contained in the NCCI SCOPES of Basic Manual Classifications (filed and approved by the Florida Office of Insurance Regulation) and the NCCI Basic Manual for Workers' Compensation and Employers Liability (filed and approved by the Florida Office of Insurance Regulation) so the proper classification code for each employee may be determined. If such records are not maintained, then the entire payroll shall be presumed to be within the classification code to which the highest insurance rate is applicable. To ensure their availability for audit purposes, the records shall be retained for five (5) years from the end of the payroll period. The location of these records shall be provided to the Division upon submission of the application for self-insurance and updated within fifteen (15) days of any relocation.

(2) At the conclusion of the audit conducted by the Division or its Authorized Representative, a preliminary report shall be prepared and sent to the self-insurer. The preliminary report shall identify any payroll or classification deficiencies. The self-insurer shall have thirty (30) days from the date of receipt to review and respond to the Division's preliminary report. The Division shall review the response and issue a final report.

(3) If any audit of such records discloses an underpayment of the Workers' Compensation Administration Trust Fund assessment in excess of xx% ..., then the cost of the audit shall be paid by the self-insurer to the Division. The calculation of the cost of the audit shall be based on the following:

The hourly rate of the Division's employee(s) plus expenses, or

The amount charged by the Authorized Representative.

All payments shall be made payable to the Workers' Compensation Administration Trust Fund and mailed to the:

Division of Workers' Compensation

Bureau of Monitoring and Audit

200 East Gaines Street

Tallahassee, FL 32399-4224

Payment shall be made within thirty (30) days after receipt of the final report. This shall be in addition to any penalties or interest that shall otherwise be due.

**69L-5.205 Loss Data Reporting**

Current Self-Insurers and Former Self-Insurers shall submit summary loss data for all entities covered under the self-insurance authorization on NCCI Form ERM-6 (Report of Workers' Compensation Experience Rating for Non-Affiliate Data). Failure to submit the required loss data forms or material understatement or concealment of data shall constitute good cause for revocation of the self-insurance authorization in addition to civil penalties specified in Rule Chapter 69L-5.216, F.A.C.

- (1) NCCI Form ERM-6 shall be mailed to the self-insurer at least 10 days prior to the evaluation date. NCCI Form ERM-6 provided by the Division will contain up to three (3) years of previously reported payroll data.
- (2) Current Self-Insurers will complete NCCI Form ERM-6 by submitting summary loss data for the periods corresponding to the payroll data shown on the form.
- (3) Former Self-Insurers shall continue to submit this report until the summary loss data for the final period of authorization has been reported for three (3) years.
- (4) The completed NCCI Form ERM-6 shall be submitted no later than sixty (60) days after the evaluation date. The completed NCCI Form ERM-6 shall be accompanied by a check (\*\*CHECK PAYABLE TO WHOM?\*\*) to cover the cost of the experience modification calculation. For purposes of this section the evaluation date is six (6) months after the Anniversary Rating Date.

- (a) Governmental Entities and Public Utilities shall submit NCCI Form ERM-6 to the:

Department of Financial Services  
Division of Workers' Compensation  
Bureau of Monitoring and Audit/Self-Insurance  
200 East Gaines Street  
Tallahassee, Florida 32399-4224

- (b) FSIGA Members shall submit NCCI Form ERM-6 to the:

Florida Self-Insurers Guaranty Association, Inc.  
1427 E. Piedmont Dr., 2<sup>nd</sup> Floor  
Tallahassee, Florida 32308



(5) The Division will forward the completed ERM-6 to the licensed rating organization. The licensed rating organization will promulgate the experience modification using the NCCI Basic Manual for Workers' Compensation and Employers Liability (filed and approved by the Florida Office of Insurance Regulation) and the NCCI Experience Rating Plan Manual (filed and approved by the Florida Office of Insurance Regulation).

(6) The experience modification shall be used in the calculation and collection of the following assessments: the Workers' Compensation Administration Trust Fund, the Special Disability Trust Fund, and the Florida Self-Insurers Guaranty Association, Inc.

(7) The licensed rating organization shall provide a copy of the experience rating worksheet to each self-insured employer and the Division.

#### **69L-5.206 Maintenance of Loss Data Records, Review and Audit**

(1) All documentation and records supporting the submitted NCCI Form ERM-6 shall be open for inspection and audit by the Division or its Authorized Representative, during regular business hours. Self-insurers are required to maintain loss records that reflect a true and accurate division by the classification codes, status type, and injury codes contained in the NCCI Workers' Compensation Statistical Plan Manual (filed and approved by the Florida Office of Insurance Regulation) and the NCCI Basic Manual for Workers' Compensation and Employers Liability (filed and approved by the Florida Office of Insurance Regulation) so the proper classification code, status type, and injury code for each accident may be determined. To ensure their availability for audit purposes, the records shall be retained for five (5) years from the last date the claims data was used for calculation of the experience modification. The location of these records shall be provided to the Division upon submission of the application for self-insurance and updated within fifteen (15) days of any relocation.

(2) At the conclusion of the audit conducted by the Division or its Authorized Representative, a preliminary report shall be prepared and sent to the self-insurer. The preliminary report shall identify any payroll, loss, or classification deficiencies. The self-insurer shall have thirty (30) days from the date of receipt to review and respond to the Division's preliminary report. The Division shall review the response and issue a final report.

(3) If any audit of such records discloses an underpayment of the Workers' Compensation Administration Trust Fund assessment in excess of xx% ..., then the cost of the audit shall be paid by the self-insurer to the Division. The calculation of the cost of the audit shall be based on the following:

The hourly rate of the Division's employee(s) plus expenses, or

The amount charged by the Authorized Representative.

All payments shall be made payable to the Workers' Compensation Administration Trust Fund and mailed to  
the:

Division of Workers' Compensation

Bureau of Monitoring and Audit

200 East Gaines Street

Tallahassee, FL 32399-4224

Payment shall be made within thirty (30) days after receipt of the final report. This shall be in addition to any penalties or interest that shall otherwise be due.

#### **69L-5.207 Outstanding Liabilities Reporting**

Current Self-Insurers and Former Self-Insurers, other than Governmental Entities, shall report their outstanding self-insured workers' compensation liabilities for all entities covered under the self-insurance authorization on Form DFS-F2-SI-20 (Outstanding Workers' Compensation Liabilities). This includes all outstanding liabilities of Former Self-Insurers for which the Current Self-Insurer is the Successor Entity. Failure to submit the required Outstanding Workers' Compensation Liabilities report, or material understatement or concealment of loss reserves, shall constitute good cause for revocation of the self-insurance authorization in addition to civil penalties specified in Rule Chapter 69L-5.216, F.A.C. Form DFS-F2-SI-20 shall be accompanied by detailed information substantiating all amounts reported on the form, be signed by an Authorized Representative of the Self-Insurer or its Qualified Servicing Entity, and be submitted no later than four (4) months after the end of the self-insurer's fiscal year. The evaluation date shall not be prior to the end of the self-insurer's latest fiscal year.

(1) Public Utilities shall submit Form DFS-F2-SI-20 to the:

Department of Financial Services

Division of Workers' Compensation

Bureau of Monitoring and Audit/Self-Insurance

200 East Gaines Street

Tallahassee, Florida 32399-4224

(2) FSI GA Members shall submit Form DFS-F2-SI-20 to the:

Florida Self-Insurers Guaranty Association, Inc.

1427 E. Piedmont Dr., 2<sup>nd</sup> Floor

Tallahassee, Florida 32308

**69L-5.208 Maintenance of Outstanding Liabilities Records, Review and Audit**

(1) All records supporting Form DFS-F2-SI-20 shall be open for inspection and audit by the Division, the Association, or their Authorized Representative, during regular business hours. Each self-insurer is required to maintain all records supporting Form DFS-F2-SI-20. To ensure their availability for audit purposes, the records shall be retained for five (5) years after closing of a claims file.

(2) The location of these records shall be provided to the Division upon submission of the application for self-insurance and updated within fifteen (15) days of any relocation.

**69L-5.209 Financial Statements Reporting**

Current Self-Insurers and Former Self-Insurers, other than Governmental Entities, shall submit their Financial Statements no later than four (4) months after the end of their fiscal year. Failure to submit the required Financial Statements shall constitute good cause for revocation of the self-insurance authorization in addition to civil penalties specified in Rule Chapter 69L-5.216, F.A.C.

(1) The Financial Statements shall meet the following requirements:

(a) The Financial Statements shall be in the name of the entity holding the self-insurance authorization,

(b) The Financial Statements shall demonstrate that the self-insurer has the financial strength necessary to ensure the timely payment of all current and future claims,

(c) The Financial Statements shall show a minimum Net Worth of the greater of \$10,000,000 U.S. or three (3) times Standard Premium, and

(d) The Financial Statements shall be audited in accordance with Generally Accepted Auditing Standards.

(2) All legal entities included under the self-insurance authorization shall submit Financial Statements in accordance with this rule. Separate Financial Statements shall be submitted for each entity unless consolidated or combined Financial Statements are submitted. All Financial Statements submitted must comply with the provisions of this rule. However, for purposes of meeting the minimum Net Worth requirement, the Net Worths of the companies comprising an Affiliated Self-Insurer may be combined.

(3) If a majority of the assets and/or stocks of a Current Self-Insurer is purchased by a Successor Entity and the Current Self-Insurer can no longer provide Financial Statements in its own name, then the Current Self-Insurer's authorization shall be revoked unless the Successor Entity becomes a Current Self-Insurer pursuant to this rule or the Current Self-Insurer voluntarily terminates its self-insurance authorization. Application for a self-insurance authorization by the Successor Entity must be made within thirty (30) days of the effective date of the acquisition or restructuring.

(4) The Successor Entity of a Former Self-Insurer shall submit its Financial Statements in accordance with this rule.

(5) The Successor Entity shall acknowledge liability for payment of the Former Self-Insurer's self-insured workers' compensation liabilities by providing a written statement executed by a senior executive officer of the Successor Entity.

(6) Public Utilities shall submit Financial Statements to the:

Department of Financial Services  
Division of Workers' Compensation  
Bureau of Monitoring and Audit/Self-Insurance  
200 East Gaines Street  
Tallahassee, Florida 32399-4224

(7) FSIGA Members shall submit Financial Statements to the:

Florida Self-Insurers Guaranty Association, Inc.  
1427 E. Piedmont Dr., 2<sup>nd</sup> Floor  
Tallahassee, Florida 32308

#### **69L-5.210 Actuarial Reports**

(1) Current Self-Insurers and Former Self-Insurers, other than Governmental Entities, that do not have Investment Grade Credit Ratings shall be required to submit Actuarial Reports within four (4) months after the end of their fiscal year or any other date requested by the Division or the Association.

(xx) Actuarial Reports shall have a valuation date not more than six (6) months prior to the date submitted to the Division or the Association.

(xx) If requested by the Division or the Association, any Current Self-Insurer or Former Self-Insurer, other than a Governmental Entity, shall be required to submit an Actuarial Report.

(2) The Division or the Association may require that the Actuarial Report include a forecast of loss reserves to a future date and request an Actuarial Report at any time.

(3) Public Utilities shall submit Actuarial Reports to the:

Department of Financial Services  
Division of Workers' Compensation  
Bureau of Monitoring and Audit/Self-Insurance  
200 East Gaines Street  
Tallahassee, Florida 32399-4224

(4) FSIIGA Members shall submit Actuarial Reports to the:

Florida Self-Insurers Guaranty Association, Inc.  
1427 E. Piedmont Dr., 2<sup>nd</sup> Floor  
Tallahassee, Florida 32308

#### **69L-5.211 Changes In Anniversary Rating Date**

Any Current Self-Insurer desiring to change its Anniversary Rating Date shall submit a request in writing.

(1) Governmental Entities and Public Utilities shall submit requests to the:

Department of Financial Services  
Division of Workers' Compensation  
Bureau of Monitoring and Audit/Self-Insurance  
200 East Gaines Street

Tallahassee, Florida 32399-4224

(2) FSI GA Members shall submit requests to the:

Florida Self-Insurers Guaranty Association, Inc.

1427 E. Piedmont Dr., 2<sup>nd</sup> Floor

Tallahassee, Florida 32308

Upon receipt of the written request, the Division or the Association shall advise the self-insurer in writing within thirty (30) days as to the effective date of the change, using the NCCI Workers' Compensation Statistical Plan Manual (filed and approved by the Florida Office of Insurance Regulation) to determine this date.

#### **69L-5.212 Contact Information Reporting**

Current Self-Insurers and Former Self-Insurers shall provide written notification of changes in their contact information within thirty (30) days of the effective date of the change. Notification shall be submitted as follows:

(1) Governmental Entities and Public Utilities shall submit contact information to the:

Department of Financial Services

Division of Workers' Compensation

Bureau of Monitoring and Audit/Self-Insurance

200 East Gaines Street

Tallahassee, Florida 32399-4224

(2) FSI GA Members shall submit contact information to the:

Florida Self-Insurers Guaranty Association, Inc.

1427 E. Piedmont Dr., 2<sup>nd</sup> Floor

Tallahassee, Florida 32308

#### **69L-5.213 Subsidiary, Affiliate and Location Reporting**

(1) Current Self-Insurers shall provide written notification of changes in the names and addresses, as well as changes in the structure, of the self-insurer, its affiliates and their wholly or majority owned subsidiaries, along with the Federal Employer Identification Number (FEIN), fictitious names, and percentage of ownership for each legal entity included under the self-insurance authorization within thirty (30) days of the effective date of the change.

Current Self-Insurers shall also provide written notification of changes in the addresses of all operating locations with employees within the State of Florida, which are included under the self-insurance authorization within thirty (30) days of the effective date of the change.

(2) Current Self-Insurers shall annually certify the accuracy of their subsidiary, affiliate and location information. Such certification shall be signed by an officer of the Current Self-Insurer.

(3) Notifications of changes and annual certifications shall be submitted as follows:

(a) Governmental Entities and Public Utilities shall submit location information to the:

Department of Financial Services  
Division of Workers' Compensation  
Bureau of Monitoring and Audit/Self-Insurance  
200 East Gaines Street  
Tallahassee, Florida 32399-4224

(b) FSI GA Members shall submit location information to the:

Florida Self-Insurers Guaranty Association, Inc.  
1427 E. Piedmont Dr., 2<sup>nd</sup> Floor  
Tallahassee, Florida 32308

#### **69L-5.214 Indemnity Agreements for Affiliated Self-Insurers**

Affiliated Self-Insurers must execute a new Form DFS-F2-SI-11 (Indemnity Agreement) within thirty (30) days of changes in the affiliates included under the self-insurance authorization. Form DFS-F2-SI-11 shall be executed by an officer of each affiliated entity to be included under the self-insurance authorization.

#### **69L-5.215 Provision of Benefits and a Safe Working Environment by Self-Insurers**

(1) It shall be the sole responsibility of Current Self-Insurers and Former Self-Insurers to provide for competent persons to service their self-insurance program in the areas of claims adjusting, safety engineering and loss control. This shall be done through either the use of their own employees, who are determined by the Department to be competent in these areas, or by contracting with a Qualified Servicing Entity approved by the Division to provide these services. A list of Qualified Servicing Entities may be obtained by contacting the Division at:

Division of Workers' Compensation  
Bureau of Monitoring and Audit / Self-Insurance  
200 East Gaines Street  
Tallahassee, Florida 32399-4224

(2) Current Self-Insurers and Former Self-Insurers choosing to use their own employees to provide these services must obtain prior approval from the Division and shall submit Form DFS-F2-SI-19 (Certification of Servicing for Self-Insurers) within thirty (30) days of a change in servicing arrangement and at least every three (3) years thereafter.

(3) Current Self-Insurers or Former Self-Insurers contracting with Qualified Servicing Entities must file Form DFS-F2-SI-19 within thirty (30) days of entering into a servicing contract.

(xx) For Governmental Entities and Public Utilities, Form DFS-F2-SI-19 shall be obtained from and submitted to the:

Department of Financial Services  
Division of Workers' Compensation  
Bureau of Monitoring and Audit/Self-Insurance  
200 East Gaines Street  
Tallahassee, Florida 32399-4224

(xx) For FSIGA Members, Form DFS-F2-SI-19 shall be obtained from and submitted to the:

Florida Self-Insurers Guaranty Association, Inc.  
1427 E. Piedmont Dr., 2<sup>nd</sup> Floor  
Tallahassee, Florida 32308

(xx) Failure to submit the required Certification of Servicing shall constitute good cause for revocation of the self-insurance authorization in addition to civil penalties specified in Rule Chapter 69L-5.216, F.A.C.

(4) In the event that self-insured claims are transferred to a new Qualified Servicing Entity or the self-insurer assumes responsibility for provision of these services in-house, the previous Qualified Servicing Entity shall provide an accounting of all claims files and claims data sufficiently detailed to permit the new Qualified Servicing Entity or the self-insurer to establish accurate claims, reserving, and accounting data. Form DFS-F2-DWC-49 (Aggregate Claims Administration Change Report) shall be submitted to the Division at the time of this transfer of duties.



**69L-5.216 Civil Penalties and Fines**

(1) Civil Penalties for Delinquent Reports Failure to timely file legible and complete forms, reports or documents as required by Section 440.38(2)(b), F.S., or these rules shall subject the party required to file such form, report, or document to assessment by the Division of a civil penalty. For purposes of this rule, a form, report or document is considered timely filed when it is postmarked and mailed prepaid on or before the date required for filing prescribed in this rule. Reports submitted by a Qualified Servicing Entity on behalf of the self-insurer shall be treated as if they were submitted by the self-insurer directly.

(a) Late filed forms, reports, and documents required pursuant to this rule shall be penalized as follows:

1. \$500 for filings 1 to 14 days late.
2. \$2500 for filings 15 to 30 days late.
3. \$5000 for filings 31 to 60 days late.
4. For periods greater than 60 days, \$150 per day from the required filing date.

These civil penalties are to be applied per occurrence per form, report, or document. Payment shall be made within fifteen (15) days after receipt of the notification and submitted along with the form, report, or document. Failure to submit the required forms, reports and documents constitutes good cause for revocation of the self-insurance authorization in addition to civil penalties specified in this rule.

(2) A request for an extension of time to file a form, report, or document shall be made in writing by the self-insurer or its Qualified Servicing Entity and shall be postmarked or received no later than fifteen (15) days prior to the due date of the report. Extensions shall be granted in writing and notice mailed to the self-insurer or Qualified Servicing Entity. Such extension shall establish a new one-time due date subject to the same provision for late filing.

(a) For forms, reports, or documents, other than Actuarial Reports requested by the Association and Financial Statements, extensions may be granted by the Division if proof is supplied by the self-insurer or Qualified Servicing Entity that circumstances entirely beyond the control of the self-insurer or its Qualified Servicing Entity have made it impossible to file in a timely manner. Such circumstances shall be limited to:

- (i) The destruction of the records of the self-insurer or its Qualified Servicing Entity,
- (ii) Delays caused by Acts of God or nature, or

(iii) Delays caused by other regulatory processes of the State of Florida or the United States Government. Clerical errors, personnel turnover, accidental or intentional destruction of forms and records by employees of the self-insurer or its Qualified Servicing Entity or any delays caused by the incompetence of the employees of the self-insurer or its Qualified Servicing Entity shall not be grounds for an extension.

(b) For Financial Statements, extensions may be granted by the Division if proof is supplied by the self-insurer that circumstances entirely beyond the control of the self-insurer have made it impossible to file in a timely manner. Extensions may be granted for up to sixty (60) days if the self-insurer submits draft Financial Statements and provides evidence that the reason for the delay in submittal is entirely beyond the control of the self-insurer. For extensions beyond sixty (60) days from the original due date, circumstances shall be limited to:

(i) The destruction of the records of the self-insurer,

(ii) Delays caused by Acts of God or nature, or

(iii) Delays caused by other regulatory processes of the State of Florida or the United States Government.

For consideration of extensions beyond sixty (60) days from the original Financial Statements due date, clerical errors, personnel turnover, accidental or intentional destruction of forms and records by employees of the self-insurer or any delays caused by the incompetence of the employees of the self-insurer shall not be grounds for an extension.

(3) Fines for Delinquent Payment of Assessments - Assessments payable to the Florida Self-Insurers Guaranty Association, Inc. not postmarked by the due date shall pay a fine of \$100 or 5% of the assessment due, whichever is greater, per month until paid.

(4) All civil penalty and fine payments shall be made payable to the Workers' Compensation Administration Trust Fund and mailed to the:

Division of Workers' Compensation

Bureau of Monitoring and Audit

200 East Gaines Street

Tallahassee, FL 32399-4224

Failure to submit forms, reports, documents, Financial Statements or Actuarial Reports and/or remit civil penalties or fines shall be grounds for revocation.

## 69L-5.217 Security Deposits

(1) Current Self-Insurers and Former Self-Insurers, other than Governmental Entities, that have a current Investment Grade Credit Rating shall maintain a minimum Security Deposit of \$100,000.

(2) Current Self-Insurers, other than Governmental Entities, that do not have a current Investment Grade Credit Rating shall provide a Security Deposit in an amount equal to the greater of the actuarially determined outstanding loss reserves discounted to present value, using a four percent (4%) discount rate, or the actuarially determined outstanding loss reserves forecasted to a date one year in the future, discounted to such forecasted date using a four percent (4%) discount rate, as calculated in its Actuarial Report. In no case, shall the amount of the Security Deposit be less than \$100,000.

(xx) Former Self-Insurers, other than Governmental Entities, that do not have an Investment Grade Credit Rating shall provide a Security Deposit equal to the actuarially determined outstanding loss reserves discounted to present value at a four percent (4%) discount rate. In no case shall the amount of the Security Deposit be less than \$100,000.

(xx) In the event that a Current Self-Insurer or Former Self-Insurer does not have a current published Credit Rating, the Association shall estimate an equivalent rating and the amount of the Security Deposit shall be determined using the equivalent rating as the Credit Rating. A Current Self-Insurer or Former Self-Insurer that disagrees with the equivalent rating may provide a current Credit Rating. If the Current Self-Insurer or Former Self-Insurer provides a current Credit Rating, the security deposit requirement will be determined using the current Credit Rating instead of the equivalent rating and any excess security deposit will be immediately released and returned.

(3) The Security Deposit shall be maintained until the authorization holder is a Former Self-Insurer who has demonstrated that there is no remaining value to its self-insured workers' compensation claims and the statute of limitations has run on closed claims. Prior to the release of the Security Deposit, the Former Self-Insurer and its Qualified Servicing Entity(ies) shall provide signed affidavits stating that all self-insured workers' compensation claims have been settled or the statute of limitations has run on closed claims.

(4) If the self-insurer is a FSIIGA Member, the Security Deposit must be submitted to and executed in favor of the Association. If the self-insurer is a Public Utility, the Security Deposit must be submitted to and executed in favor of the Division. The Security Deposit shall be held by the Association or the Division exclusively for the benefit of workers' compensation claimants. The Security Deposit shall not be subject to assignment, execution, attachment,

or any legal process whatsoever, except as necessary to guarantee the payment of workers' compensation benefits under Chapter 440, F.S.

(a) For FSIGA Members, security deposit forms can be obtained from and shall be submitted to the:

Florida Self-Insurers Guaranty Association, Inc.

1427 E. Piedmont Dr., 2<sup>nd</sup> Floor

Tallahassee, Florida 32308

(b) For Public Utilities, security deposit forms can be obtained from and shall be submitted to the:

Department of Financial Services

Division of Workers' Compensation

Bureau of Monitoring and Audit/Self-Insurance

200 East Gaines Street

Tallahassee, FL 32399-4224

(5) A Security Deposit shall consist of, at the option of the employer:

(a) A Surety Bond on Form DFS-F2-SI-4 (Self-Insurers Surety Bond), which shall be issued by a corporation surety authorized to transact surety business by the Florida Department of Financial Services, Florida Office of Insurance Regulation, and whose financial strength and size ratings from A. M. Best Company are not less than "A" and "V" respectively, or

(b) An Irrevocable Letter of Credit on Form DFS-F2-SI-6 (Self-Insurer Irrevocable Letter of Credit), which shall be issued by a financial institution located within the State of Florida and the deposits of which are insured through the Federal Deposit Insurance Corporation.

(7) No surety bond shall be terminated and no irrevocable letter of credit shall be allowed to expire, without ninety (90) days prior written notice and a deposit by the self-insurer of some other Security Deposit of equal value within ten (10) business days after such notice. Failure to provide such written notice or failure to timely provide a replacement Security Deposit after such notice shall constitute grounds for the Association or Division to call or sue upon the surety bond or to exercise its rights under the letter of credit. For Former Self-Insurers, a surety bond may be terminated without replacement, but shall not be released until such time as the Former Self-Insurer has demonstrated that there is no remaining value to its self-insured workers' compensation claims, the statute of

limitations has run on closed claims, and the Former Self-Insurer has submitted the signed affidavits in accordance with these rules. Notice shall be submitted to:

(a) For FSIGA Members,

Florida Self-Insurers Guaranty Association, Inc.  
1427 E. Piedmont Dr., 2<sup>nd</sup> Floor  
Tallahassee, Florida 32308

(b) For Public Utilities,

Department of Financial Services  
Division of Workers' Compensation  
Bureau of Monitoring and Audit/Self-Insurance  
200 East Gaines Street  
Tallahassee, FL 32399-4224

**69L-5.218 Excess Insurance**

Current Self-Insurers, other than Governmental Entities, shall maintain a Specific Excess Insurance Policy. Such policy shall have statutory workers' compensation limits.

(1) The self-insured retention of Specific Excess Insurance Policies shall be as follows:

(a) The self-insurer's per occurrence retention shall be no more than \$500,000 or 1% of the self-insurer's Net Worth as shown on the self-insurer's latest audited Financial Statements, whichever is greater. The self-insured retention shall be rounded to the nearest \$50,000.

(b) A higher self-insured retention may be allowed, if approved by the Department. The Department shall consider the Current Self-Insurer's financial strength in its review of the requested self-insured retention.

(2) Specific Excess Insurance Policies for Current Self-Insurers shall be written by insurance companies licensed in Florida pursuant to Chapters 624, 628 or 629, F.S., and shall be subject to the protection afforded by the Florida Workers' Compensation Insurance Guaranty Association Act (Chapter 631, Part V, F.S.).

(3) If coverage is not available from a company identified above, the Department may accept policies issued without the protection of the Florida Workers' Compensation Insurance Guaranty Association Act issued by insurance companies who have current financial strength and size ratings from A. M. Best Company of not less than "A-" and "VII" respectively.

(4) The Division shall reject any Specific Excess Insurance Policy written by an insurance company which:

- (a) Does not pay its claims when due, or
- (b) Is not in compliance with any requirement of Chapter 624, F.S.

(5) The Specific Excess Insurance Policy shall meet the following requirements:

(a) Shall be issued by an insurance company conforming to these rules and shall name the Division as an additional insured for the purpose of notification.

(b) Shall not be cancelled except upon sixty (60) days written notice by certified mail to the other party to the policy and to the Division.

(c) Shall be automatically renewable at the expiration of the policy period unless written notice by certified mail is given to the other party to the policy and to the Division sixty (60) days prior to such expiration by the party desiring to cancel or not renew the policy.

(d) Shall provide that any commutation affected under the policy shall not relieve the underwriter of further liability in respect to claims and expenses unknown at the time of such commutation. The underwriter shall not be relieved in regard to closed claims, which may be subsequently revived by or through a competent authority. In the event the underwriter proposes to redeem any future payments as compensation for accidents occurring during the term of the policy, not less than sixty (60) days prior notice of such commutation shall be given to the Division by certified mail by the underwriter or its agent.

(e) Provides that, in the event any commutation is effected, the Division shall have the right to direct that such sum either be placed in trust for the benefit of the injured employee or employees entitled to such future payments of compensation or be invested in approved securities and deposited with the Division to insure such future payments of compensation to the employee or employees entitled thereto. Said commutation must contain a provision that the Division may order that the monies due under the terms of the Specific Excess Insurance Policy be paid directly to the injured employee or such other party as the Division may appoint. Such an action shall be ordered only if the Division determines that it is necessary to ensure continued benefits to the injured employee.

(f) Contains the provision that in the event of the insolvency of a FSIGA Member, the policy shall reimburse the Association for any monies expended on behalf of the self-insured. Any reimbursement shall be subject to the terms of the contract between the FSIGA Member and the insurance company. In the case of a Public Utility the policy must contain the provision that in the event of the insolvency of a Public Utility, the policy shall reimburse

the Division for any monies expended on behalf of the Public Utility. Any reimbursement shall be subject to the terms of the contract between the Public Utility and the insurance company.

(g) The Specific Excess Insurance Policy shall have no more than one named insured. The named insured shall be the FSIGA Member and its subsidiaries or the Public Utility and its subsidiaries. In the case of an Affiliated Self-Insurer, the named insured shall be all affiliated entities and their subsidiaries.

(h) Contains the provision that coverage under the Specific Excess Insurance Policy extends to all Florida, majority owned, self-insured subsidiaries of the principal named insured.

(6) A binder, providing for at least ninety (90) days coverage, or a certificate of insurance issued by the insurance company or its authorized agent and specifying the terms of the policy, shall be filed within thirty (30) days after the effective date of the policy, provided that this proof of specific excess insurance is not being submitted in support of an application for self-insurance. Excess renewal endorsements specifying the terms of the policy submitted to the Association within thirty (30) days after the renewal date satisfies this requirement. In the event of cancellation or non-renewal of the Specific Excess Insurance Policy, it shall be necessary for the Current Self-Insurer to file proof of replacement specific excess insurance coverage prior to the cancellation or non-renewal date. Copies of all Specific Excess Insurance Policies, complete with all endorsements in the name of the insured, shall be filed within ninety (90) days of the effective date of the policy.

(7) Public Utilities shall submit Specific Excess Insurance Policies and all related documents and notices to the:

Department of Financial Services  
Division of Workers' Compensation  
Bureau of Monitoring and Audit/Self-Insurance  
200 East Gaines Street  
Tallahassee, Florida 32399-4224

FSIGA Members shall submit Specific Excess Insurance Policies and all related documents and notices to the:

Florida Self-Insurers Guaranty Association, Inc.  
1427 E. Piedmont Dr., 2<sup>nd</sup> Floor  
Tallahassee, Florida 32308

(xx) If requested by the Association or the Division, self-insurers shall provide copies of excess insurance policies to support estimated excess insurance recoveries included in their Actuarial Reports provided to the Association or the Division.

**69L-5.219 Drug-Free Workplace Premium Credit Program (\*\* NOT REVIEWED BY FSIGA\*\*)**

In order for a self-insurer to receive up to a five percent (5%) credit on the computation of premiums used in the determination of the assessments for the Workers' Compensation Administration Trust Fund, the Special Disability Trust Fund and the Florida Self-Insurers Guaranty Association, Inc., they must certify that they have established a drug-free workplace in accordance with Sections 440.101 and 440.102, F.S.

The certification must be completed using NCCI Form 09-1 and shall be filed annually, sixty (60) days prior to their Anniversary Rating Date. The completed Form 09-1 shall be mailed to the:

Division of Workers' Compensation,  
Assessments Unit  
200 East Gaines Street,  
Tallahassee, FL 32399-4221

Certifications not received prior to the Anniversary Rating Date shall be applied pro rata as of the date the certification is received at the Division.

**69L-5.220 Safety Program Premium Credit (\*\*NOT REVIEWED BY FSIGA\*\*)**

In order for a self-insurer to receive up to a two percent (2%) credit on the computation of premiums used in the determination of the assessments for the Workers' Compensation Administration Trust Fund, the Special Disability Trust Fund and the Florida Self-Insurers Guaranty Association, Inc., they must certify that they have established a workplace safety program in accordance with Section 440.1025, F.S.

The certification must be completed using the NCCI Form 09-3 and shall be filed annually sixty (60) days prior to their Anniversary Rating Date. The completed Form 09-3 shall be mailed to the:

Division of Workers' Compensation,  
Assessments Unit  
200 East Gaines Street,



Tallahassee, Florida 32399-4221.

Certifications not received prior to the Anniversary Rating Date shall be applied pro rata as of the date the certification is received at the Division.

**69L-5.221 Revocation and Employer Compliance**

(1) Failure to comply with any of the rules herein or with any order of the Division within the time prescribed shall be considered good cause for revocation of the self-insurance authorization, within the meaning of Section 440.38(3), F.S. Noncompliance with any of the provisions of the Workers' Compensation Law, Chapter 440, F.S., particularly those relating to time and method of compensation payments, the furnishing of medical treatment and filing of accident and compensation reports, or failure to pay any assessment or penalty, shall likewise be deemed good cause.

(2) Material understatement or concealment of payroll, and material misrepresentation or concealment of employee duties, so as to avoid proper classification shall be considered good cause for revocation of the self-insurance authorization, within the meaning of Section 440.38(3), F.S. and/or action by the Department under Section 440.107, F.S. Material understatement or concealment of data pertinent to the computation and application of an experience modification factor shall be considered good cause for revocation of the self-insurance authorization, within the meaning of Section 440.38(3), F.S. and/or action by the Department under Section 440.107, F.S.

**SELF-INSURANCE PROCESS FOR GOVERNMENTAL ENTITIES (\*\*NOT REVIEWED BY FSIGA\*\*)**

**69L-5.222 Election Process**

(1) The state and its boards, bureaus, departments, and agencies and all of its political subdivisions which employ labor, and the state universities that are electing to self-insure pursuant to Section 440.38(6), F.S., shall submit to the Division for review at least 90 days prior to the preferred effective date of self-insured status, the following information:

(a) Copy of document(s) through which the entity is organized or authorized to operate as a Governmental Entity, including articles of incorporation, grant of authority, or charter, if applicable;

(b) Notification By Governmental Entity To Self-Insure For Workers' Compensation, Form DFS-F2-SI-1G, incorporated by reference into rule (rev. 03/2006);

(c) Self-Insurance Estimated Payroll, Form DFS-F2-SI-EP, incorporated by reference into rule (rev. 03/2006);

(d) Certification of Servicing For Self-Insurers, Form SI-19, incorporated by reference into rule (rev. 09/1996);

and

(e) Workers' Compensation Experience Rating For Self-Insurers worksheet, Form ERM-6, for the current and two preceding years, as set forth in the National Council on Compensation Insurance (NCCI) Experience Rating Plan Manual for Workers' Compensation and Employers Liability Insurance, incorporated by reference into rule (rev. 01/2002). The notification and supporting documentation shall be submitted to the following address:

Division of Workers' Compensation  
Bureau of Monitoring and Audit / Self-Insurance  
200 East Gaines Street  
Tallahassee, Florida 32399-4224

(2) Upon receipt of the notification and supporting documentation from an entity defined within the scope of Section 440.38(6), F.S., the Division shall provide to the entity the "Insurer Code #" pursuant to Rule 69L-3.002, F.A.C., prior to the effective date of self-insured status for compliance with filing requirements of Rule Chapters 69L-3 and 69L-7, F.A.C.

(3) Forms adopted. The forms set forth in paragraphs 69L-5.222(b) - (e), as well as the accompanying instructions to the forms, are hereby adopted. Copies of the forms set forth in paragraphs 69L-5.222(b) - (d) are available from:

Division of Workers' Compensation  
Bureau of Monitoring and Audit / Self-Insurance  
200 East Gaines Street  
Tallahassee, Florida 32399-4224

The form set forth in Rule 69L-5.222(e), F.A.C., is found within the National Council on Compensation Insurance, Inc. (NCCI) Experience Rating Plan Manual for Workers' Compensation and Employers Liability Insurance. A copy of the Manual and a one year subscription to any and all updates may be obtained from;

National Council on Compensation Insurance, Inc.

750 Commerce Drive,

Boca Raton, FL 33487

Telephone (800) 622-4123, at a cost of \$95. A copy of the Manual is also available for viewing at:

Division of Workers' Compensation

Bureau of Monitoring and Audit/Self-Insurance

2012 Capital Circle, S.E., Hartman Building, Suite 200

Tallahassee, FL 32399-4224.

*Specific Authority 440.38(2)(b), FS., 440.591, FS. Law Implemented 440.38(6), FS. History--New 5-19-97, Formerly 38F-5.102, 4L-5.102, Amended \_\_\_\_\_.*

#### **69L-5.223 Termination**

A Governmental Entity who ceases self-insurance shall notify the Division of such withdrawal and shall continue to file all reports required by this rule with the Division upon withdrawal and thereafter until such time as the employer has satisfied the Division that there is no remaining value to the claims incurred while the employer was self-insured.

#### **SELF-INSURANCE PROCESS FOR PUBLIC UTILITIES (\*\* NOT REVIEWED BY FSIGA \*\*)**

##### **69L-5.224 Requirements for Self-Insured Public Utilities**

An employer that was self-insured as a Public Utility pursuant to Section 440.38, F.S., prior to October 1, 2002, shall at all times maintain the following requirements:

- (1) Minimum net worth of \$10,000,000 U.S.
- (2) The financial strength to ensure the payment of all current and future claims.
- (3) A Security Deposit that conforms to the requirements of Rule 69L-5.217, F.A.C. in the amount required by the Division.
- (4) A Specific Excess Insurance Policy that conforms to Rule 69L-5.218, F.A.C.
- (5) A current completed Form DFS-F2-SI-19 (Certification of Servicing for Self-Insurers) detailing the servicing arrangements and accompanying documentation.

**69L-5.225 Contractors**

All employers that were self-insured as Public Utilities pursuant to Section 440.38, F.S., prior to October 1, 2002, must file with the Division a list of all parties with which the self-insured Public Utility has contracted to include under its program pursuant to Section 440.38(d), F.S. The list shall include the Federal Employer Identification Number (FEIN) of each such contractor and all locations of the contractor to be included under the self-insurance authorization.

**69L-5.226 Termination**

(1) A Public Utility desiring to terminate its self-insurance authorization shall advise the Division of the desired termination date in writing and shall provide proof of replacement coverage in the form of a certificate of insurance effective as of the desired termination date. If a certificate of insurance effective as of the desired termination date cannot be provided, then:

(a) If the certificate of insurance indicates an effective date prior to the desired termination date, the certificate must be amended to show Florida being endorsed onto the policy effective as of the desired termination date or a copy of the endorsement itself must be attached.

(b) If the certificate of insurance indicates an effective date subsequent to the desired termination date, the self-insurance authorization shall be terminated as of the effective date of the certificate of insurance.

(2) A Public Utility who voluntarily terminates its self-insurance authorization or whose self-insurance authorization is revoked, on or after January 1, 1991, shall continue to file all reports required by this rule or Chapter 440, F.S., with the Division upon termination or revocation, until such time as the Public Utility has demonstrated to the Division that there is no remaining value to the claims incurred while the Public Utility was self-insured.

**SELF-INSURANCE PROCESS FOR FSIGA MEMBERS**

**69L-5.227 Requirements**

An entity applying for a self-insurance authorization pursuant to Section 440.38(1)(b), F.S., shall meet the following requirements and shall submit a completed application package at least ninety (90) days prior to the desired effective date of the self-insurance authorization:

(1) Net Worth - An applicant's most recent audited Financial Statements shall show a minimum Net Worth of the greater of \$10,000,000 U.S. or three (3) times Standard Premium.

(xx) Financial Strength – A current Credit Rating of not less than “Ba3”, “BB-”, or “BB-” issued by Moody's Investors Services, Standard & Poor's or Fitch Ratings, respectively. In the event an applicant does not have a current published Credit Rating, the Association shall estimate an equivalent rating and the financial strength requirement shall be based on the equivalent rating. An applicant that disagrees with the equivalent rating may provide a current Credit Rating. If the applicant provides a current Credit Rating, the financial strength requirement shall be based on the current Credit Rating instead of the equivalent rating.

(2) Financial Statements - An applicant shall have at least three (3) years of Financial Statements in the name of the applicant. The Financial Statements for the most recent year shall be audited in accordance with Generally Accepted Auditing Standards. If the Financial Statements for the two years prior to the most recent year have been audited in accordance with Generally Accepted Auditing Standards, the audit reports(s) on these Financial Statements shall also be submitted.

(3) An applicant which does not have three (3) years of Financial Statements in its own name due to a recent purchase or merger, may use the Financial Statements of its predecessor(s), provided there has been no change to the structure of the entity or the line of business which would adversely affect the applicant's financial condition.

(4) Security Deposit – The applicant must provide a Security Deposit that conforms to the requirements of Rule 69L-5.217, F.A.C. In the event the applicant meets the above financial strength requirement, but does not have an Investment Grade Credit Rating, the applicant shall provide a Security Deposit in an amount equal to the actuarially determined outstanding loss reserves forecasted to a date one year in the future, discounted to such forecasted date using a four percent (4%) discount rate, as calculated in its Actuarial Report. In no case, shall the amount of the Security Deposit be less than \$100,000.

(5) Specific Excess Insurance Policy Requirements - The applicant must provide proof of a Specific Excess Insurance Policy that conforms to the requirements of Rule 69L-5.218, F.A.C.

(6) Provision of Benefits and a Safe Working Environment - The applicant must provide a completed Form DFS-F2-SI-19 (Certification of Servicing for Self-Insurers) detailing the proposed servicing arrangements and accompanying documentation that conforms to the requirements of Rule 69L-5.215, F.A.C.

(7) In order for an application to be considered complete, all required documents must be submitted, including the Security Deposit, proof of Specific Excess Insurance Policy, and Certification of Servicing for Self-Insurers.

*Specific Authority Chapter 440.38(1)(b)5*

#### **69L-5.228 Application Process**

(1) An application for self-insurance shall be made on Form DFS-F2-SI-1. An application may be obtained at:

Florida Self-Insurers Guaranty Association, Inc.

1427 E. Piedmont Dr., 2nd Floor

Tallahassee, FL 32308

Or:

[www.fsga.org](http://www.fsga.org)

(2) All applications for self-insurance shall be submitted in duplicate at least ninety (90) days prior to the desired effective date. Self-insurance effective dates shall be determined by the Division with consideration given to the date selected by the applicant and shall always be on the first of the month. However, on no occasion shall the effective date be more than three (3) months after the approval date.

(3) The following information shall be submitted in duplicate with the application:

(a) The most recent three (3) years of Financial Statements that conform to the requirements of Rule 69L-5.227, F.A.C.

(xx) If the date of the latest Financial Statements is over six (6) months old at the time of application, interim financial statements, up to and including, at least the latest fiscal quarter must be included and must be certified as to their accuracy by a corporate officer, general partner or sole proprietor.

(b) A completed Form DFS-F2-SI-19 (Certification of Servicing for Self-Insurers) detailing the proposed servicing arrangements and accompanying documentation that conforms to the requirements of Rule 69L-5.215, F.A.C.

(c) A list of all entities which the applicant intends to include under its self-insurance authorization in accordance with Rule 69L-5.202, F.A.C. that includes the following information:

1. Percentage of the applicant's ownership interest in each entity,
2. Federal Employer Identification Number (FEIN) of each entity,

3. Addresses of each entity and its operating locations within the State of Florida, and

4. Any fictitious names used by each entity within the State of Florida.

(d) If the applicant is seeking approval as an Affiliated Self-Insurer, Form DFS-F2-SI-11 (Indemnity Agreement) shall be executed by an officer of each affiliated company to be included under the self-insurance authorization.

(e) A list of corporate officers, general partners, or sole proprietor as applicable to the corporate structure of the applicant including the resident city and state and the full business address of each.

(f) Certification by a corporate officer, general partner, or sole proprietor stating that the applicant, at the time of application, and until approval of the application, will maintain workers' compensation insurance coverage in compliance with Section 440.38(1)(a), F.S.

(g) Certification by a corporate officer, general partner, or sole proprietor stating that the applicant has not experienced a material adverse change in its financial condition since the date of the latest provided Financial Statements.

(h) A certificate of status from the applicant's state of domicile, along with a certificate of status from the State of Florida, issued within the last six (6) months.

(i) If the name of the entity has changed in the last three (3) years, documentation of the change as filed with the applicant's state of domicile.

(j) Experience modification worksheets for the current and two preceding years as set forth in the NCCI Experience Rating Plan Manual (filed and approved by the Florida Office of Insurance Regulation).

(k) A Security Deposit that conforms to the requirements of Rule 69L-5.217, F.A.C.

(l) Proof of a Specific Excess Insurance Policy that conforms to Rule 69L-5.218, F.A.C.

(4) Upon receiving the application, the Association shall review the application. Any additional information needed to complete the application shall be requested within 30 days.

(5) The application is not complete for purposes of Section 120.60, F.S., until all of the above requirements are met and the required documents are submitted to the Association. The Division shall not approve any application for self-insurance until the application is complete including the submission of the Security Deposit, proof of Specific Excess Insurance Policy and Certification of Servicing for Self-Insurers.

#### **69L-5.229 Alien Corporations Additional Requirements**

An Alien Corporation applying for self-insurance must submit the following additional documentation in duplicate at the time of application in addition to the application requirements outlined in Rule 69L-5.228, F.A.C.:

(1) An opinion from an attorney, whose qualifications are deemed satisfactory to the Division, that states that the Alien Corporation's country of domicile has substantially similar laws with respect to the jurisdiction of the Department and the Courts of the State of Florida for the purpose of securing timely payment of all current and future workers compensation claims of the Alien Corporation.

(2) A stipulation that notwithstanding other rights, all matters related to the self-insurance authorization and to workers compensation claims under Chapter 440, F.S. will be resolved in Florida Courts under Florida law.

(3) Designation of a general agent for service of process in Florida.

#### **69L-5.230 Termination**

(1) A FSIGA Member who obtains replacement coverage and desires to terminate its self-insurance authorization shall advise the Association in writing within thirty (30) days of the desired termination date and shall provide proof of replacement coverage in the form of a certificate of insurance effective as of the desired termination date. If a certificate of insurance effective as of the desired termination date cannot be provided, then:

(a) If the certificate of insurance indicates an effective date prior to the desired termination date, the certificate must be amended to show Florida being endorsed onto the policy effective as of the desired termination date or a copy of the endorsement itself must be attached.

(b) If the certificate of insurance indicates an effective date subsequent to the desired termination date, the self-insurance authorization shall be terminated as of the effective date of the certificate of insurance.

(xx) A FSIGA Member who no longer has employees in the State of Florida and desires to terminate its self-insurance authorization shall so advise the Association in writing within thirty (30) days and shall provide proof that it no longer has employees in the State of Florida.

(2) A FSIGA Member who voluntarily terminates its self-insurance authorization or whose self-insurance authorization is revoked, on or after January 1, 1991, shall continue to file all reports required by this rule or Chapter 440, F.S., with the Association upon termination or revocation, until such time as the FSIGA Member has



demonstrated to the Association that there is no remaining value to the claims incurred while the FSI Member was self-insured.

**QUALIFIED SERVICING ENTITIES (\*\*FSIGA HAS NOT REVIEWED THE SUBSTANCE AS IT RELATES TO REGULATORY POLICIES. THE RECOMMENDED CHANGES ARE LIMITED TO THOSE NECESSARY FOR CONSISTENCY.\*\*)**

**69L-5.234 Application Process**

Application to become a Qualified Servicing Entity shall be made on Form DFS-F2-SI-22 (Service Company Application). Entities may apply to become a Qualified Servicing Entity in any or all of the following: claims-adjusting, loss control or safety engineering. The application shall be submitted to the Division at least ninety (90) days prior to the desired effective date. The application may be obtained at:

Division of Workers' Compensation  
Bureau of Monitoring and Audit/Self-Insurance  
200 East Gaines Street  
Tallahassee, FL 32399-4224

(1) Entities that are not insurance companies licensed to write workers' compensation insurance by the Florida Office of Insurance Regulation shall include the following in the application package:

(a) A completed Form DFS-F2-SI-22,

(b) Proof that the management and ownership of the Qualified Serving Entity is competent, trustworthy and possesses managerial experience that would make the proposed operation beneficial to the workers covered. In determining competency the Department shall consider the applicant's claims-handling history. If the applicant's history contains any of the following it shall be considered a demonstration of a lack of competency:

1. A repeated pattern or practice of questionable claims-handling techniques pursuant to Sections 440.525 or 440.20, F.S.,

2. A repeated pattern or practice of unreasonably controverting claims,

3. A repeated pattern or practice of failing to pay compensation orders as required by statute, or

4. A repeated pattern or practice of arbitrarily or unreasonably disallowing or reducing payments to healthcare providers pursuant to Section 440.13(7)(f), F.S.

(c) A completed Form DFS-F2-SI-27, Biographical Statement, for each owner and member of management, along with a brief resume.

(d) Independent background investigation reports on the owners and management performed by an approved company. (\*\* WHO IS AN APPROVED BACKGROUND INVESTIGATION COMPANY? WHERE IS LIST OF APPROVED BACKGROUND INVESTIGATION COMPANIES OBTAINED?\*\*)

(e) Proof that the applicant has a sufficient number of workers' compensation claims adjusters licensed by the State of Florida and loss control and safety engineering personnel employed on a full-time basis to meet the needs of all self-insurers with which it intends to contract. The following information shall be submitted for each employee:

1. A copy of their Florida Adjusters License, for the adjusters.
2. A copy of a current resume for loss control and safety engineering personnel.

(f) Proof of a physical location within the State of Florida separate from the client's location. If the Qualified Servicing Entity is a subsidiary of the self-insurer that it services, then the physical location may be the same as that self-insurer.

(g) Proof that they have within the State of Florida, an insurance professional qualified in the field of workers' compensation and authorized to act in all matters concerning the company's claims-handling,

(h) A notarized statement that the Qualified Servicing Entity utilizes only authorized rehabilitation services pursuant to Section 440.49(7), F.S.,

(i) Two letters of recommendation from prior or current customers,

(j) A statement detailing the record handling and maintenance practices, and

(k) A copy of the standards and procedures used to develop safety programs for their clients if applicable.

(2) Entities that are insurance companies licensed to write workers' compensation insurance by the Florida Office of Insurance Regulation shall include the following in the application package:

(a) A completed Form DFS-F2-SI-22, and

(b) Proof of their certificate of authority.

(3) The entity submitting an application must have no outstanding penalties or fines owed.

(4) The entity submitting an application must be approved by the Department before engaging in business in Florida as a Qualified Servicing Entity.

**69L-5.235 Contracting with a Qualified Servicing Entity**

(1) Each Qualified Servicing Entity shall file Form DFS-F2-SI-19 (Certification of Servicing) with the Division within thirty (30) days of entering into a contract for servicing.

(a) For Governmental Entities and Public Utilities, Form DFS-F2-SI-19 shall be obtained from and submitted to the:

Department of Financial Services  
Division of Workers' Compensation  
Bureau of Monitoring/Self-Insurance  
200 East Gaines Street, Tallahassee, FL 32399-4224

(b) For FSIGA Members, Form DFS-F2-SI-19 shall be obtained from and submitted to the:

Florida Self-Insurers Guaranty Association, Inc.,  
1427 E. Piedmont Drive, 2<sup>nd</sup> Floor  
Tallahassee, FL 32308

(2) Each contract entered into by a Qualified Servicing Entity shall be open for inspection by the Division.

(3) Upon termination of a contract for servicing, the Qualified Servicing Entity agrees it shall continue to provide claims adjusting services on all claims incurred during the contract period for ninety (90) days if requested to do so by the self-insurer. The Qualified Servicing Entity shall be entitled to payment for its services at the rate agreed upon by the parties in the contract.

(4) If a self-insurer fails to adequately fund claims or becomes insolvent, the Qualified Servicing Entity shall immediately notify the Department or Association as appropriate. The Qualified Servicing Entity shall provide claims adjusting services for up to ninety (90) days or until relieved of this responsibility by the Division or the Association. The Qualified Servicing Entity shall not be required to pay claims or otherwise incur liabilities for unpaid claims due to the self-insurer's insolvency or failure to adequately fund claims if the Department or the Association is promptly notified. The Qualified Servicing Entity shall be entitled to payment for its services at the rate agreed upon by the self-insurer in the contract.

(5) When claims files and claims servicing responsibilities are transferred to a new Qualified Servicing Entity, the previous Qualified Servicing Entity shall provide an accounting of all claims files and claims data sufficiently detailed to permit the new Qualified Servicing Entity of the self-insurer to establish accurate claims, reserving, and accounting data. Form DFS-F2-DWC-49 (Aggregate Claims Administration Change Report) shall be submitted to the Division at the time of this transfer of duties.

(6) Files containing the records of the self-insurer's claims are the property of the self-insurer. Upon termination of the contract, the files shall be transferred to the new Qualified Servicing Entity or to the self-insurer along with the responsibility for handling them, and

(a) All files shall be transferred within thirty (30) days upon termination of the contract.

(b) Qualified Servicing Entities shall maintain in Florida, copies of all records relating to the self-insurer's claims that they service. The copies shall be sufficient in type and quantity to verify the accuracy and completeness of all reports and documents submitted to the Division.

(7) The Division shall be notified within thirty (30) days of any change in the location of any records.

(8) Records shall be open for inspection by representatives of the Division or Association during regular business hours. All records shall be retained for five (5) years.

(10) Qualified Servicing Entities may be audited by the Division or the Association without prior notice. Deficiencies cited in the audit shall be considered during the recertification process.

(11) Each Qualified Servicing Entity shall file with the Division no later than March 1 of each year, Form DFS-F2-SI-23 (Service Company Annual Report Form). A copy of Form DFS-F2-SI-23 is available at the:

Department of Financial Services  
Division of Workers' Compensation  
Bureau of Monitoring and Audit/Self-Insurance  
200 East Gaines Street  
Tallahassee, FL 32399-4224

(12) The Division will recertify each Qualified Servicing Entity that remains in compliance with the standards found in Rule Chapters 69L-5.217 and 69L-5.218, F.A.C.

(13) A finding by the Department of repeated questionable claims handling techniques, or of repeated questionable patterns of claims, or of repeated unreasonably controverting claims, or of a repeated practice of failing

to pay compensation orders as required by statute, or of a repeated practice of arbitrarily or unreasonably disallowing or reducing payments to healthcare providers pursuant to Section 440.13(7)(f), F.S., shall be considered good cause for the revocation of the Qualified Servicing Entity's authorization.

(14) Failure to comply with these rules or orders within the time prescribed shall be considered good cause for revocation of the certificate of approval.

#### **69L-5.236 Forms and Instructions**

The forms set forth in paragraphs (a) through (s) of this subsection, as well as the accompanying instructions to the forms, are hereby incorporated into Rule Chapter 69L-5, F.A.C., by reference. Copies of the forms are available from the Division of Workers' Compensation, Bureau of Monitoring and Audit, Self-Insurance Section, 200 East Gaines Street, Tallahassee, Florida 32399-4224.

- (a) Form DFS-F2-SI-1, Application for Self-Insurance (Rev. 1/2006)
- (b) Form DFS-F2-SI-1G, Application for Governmental Self-Insurance (1/2006)
- (c) Form DFS-F2-SI-4F, Self-Insurers Surety Bond for FSIGA Member (Rev. 1/2006)
- (d) Form DFS-F2-SI-4P, Self-Insurers Surety Bond for Public Utilities (Rev. 1/2006)
- (e) Form DFS-F2-SI-5, Self-Insurer Payroll Report (Rev. 1/2006)
- (f) Form DFS-F2-SI-6, Self-Insurer Irrevocable Letter of Credit (Rev. 1/2006)
- (g) Form DFS-F2-SI-11, Indemnity Agreement (Rev. 1/2006)
- (i) Form DFS-F2-SI-19, Certification of Servicing for Self-Insurers (Rev. 1/2006)
- (j) Form DFS-F2-SI-20, Report of Outstanding Workers' Compensation Liabilities (Rev. 1/2006)
- (k) Form DFS-F2-SI-22, Service Company Application (Rev. 1/2006)
- (l) Form DFS-F2-SI-23, Service Company Annual Report Form (Rev. 1/2006)
- (m) Form DFS-F2-SI-26, Actuarial Report Checklist (Rev. 1/2006)
- (n) Form DFS-F2-SI-27, Biographical Statement and Affidavit (Rev. 1/2006)
- (p) Form DFS-F2-SI-206, Certificate of Self-Insurance (Rev. 1/2006)
- (q) NCCI Form 09-1, Application for Drug-Free Workplace Premium Credit (5/7/96)
- (r) NCCI Form 09-3, Certification of Employer Workplace Safety Program Premium Credit (1/2006)
- (s) NCCI Form ERM-6, Workers' Compensation Experience Rating for Non-Affiliate Data (1/2006)