

Select Year: 2011 

## The 2011 Florida Statutes

[Title XXXI](#)  
LABOR

[Chapter 440](#)  
WORKERS' COMPENSATION

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### **440.38 Security for compensation; insurance carriers and self-insurers.—**

(1) Every employer shall secure the payment of compensation under this chapter:

(a) By insuring and keeping insured the payment of such compensation with any stock company or mutual company or association or exchange, authorized to do business in the state;

(b) By furnishing satisfactory proof to the Florida Self-Insurers Guaranty Association, Incorporated, created in s. 440.385, that it has the financial strength necessary to ensure timely payment of all current and future claims individually and on behalf of its subsidiary and affiliated companies with employees in this state and receiving an authorization from the department to pay such compensation directly. The association shall review the financial strength of applicants for membership, current members, and former members and make recommendations to the department regarding their qualifications to self-insure in accordance with this section and ss. 440.385 and 440.386. The department shall act in accordance with the recommendations unless it finds by clear and convincing evidence that the recommendations are erroneous.

1. As a condition of authorization under paragraph (a), the association may recommend that the department require an employer to deposit with the association a qualifying security deposit. The association shall recommend the type and amount of the qualifying security deposit and shall prescribe conditions for the qualifying security deposit, which shall include authorization for the association to call the qualifying security deposit in the case of default to pay compensation awards and related expenses of the association. As a condition to authorization to self-insure, the employer shall provide proof that the employer has provided for competent personnel with whom to deliver benefits and to provide a safe working environment. The employer shall also provide evidence that it carries reinsurance at levels that will ensure the financial strength and actuarial soundness of such employer in accordance with rules adopted by the department. The department may by rule require that, in the event of an individual self-insurer's insolvency, such qualifying security deposits and reinsurance policies are payable to the association. Any employer securing compensation in accordance with the provisions of this paragraph shall be known as a self-insurer and shall be classed as a carrier of her or his own insurance. The employer shall, if requested, provide the association an actuarial report signed by a member of the American Academy of Actuaries providing an opinion of the appropriate present value of the reserves, using a 4-percent discount rate, for current and future compensation claims. If any member or former member of the association refuses to timely provide such a report, the association may obtain an order from a circuit court requiring the member to produce such a report and ordering any other relief that the court determines is appropriate. The association may recover all reasonable costs and attorney's fees in such proceedings.

2. If the employer fails to maintain the foregoing requirements, the association shall recommend to

