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PRACTICE POINT

Inflation Clauses May Provide Relief for Increased Construction Costs

By Brent W. Huber and Libby Moyer – April 23, 2025

Due to inflationary pressures, in the last four to five years, construction costs have reportedly increased by some 40 percent. *See* "Construction input prices jump again, continue 2024's upward climb", Sebastian Obando, *Construction Dive*. Accordingly, after a loss while trying to rebuild, many property policyholders may find they are significantly underinsured for replacement cost coverage through no fault of their own.

Some property policies contain "inflation" clauses that may be helpful in addressing this problem. For example, one representative policy stated as follows: "The limits of liability shown on the Declarations for those Section I coverages continuously and automatically increase during the policy period." Language like the "continuously and automatically" phrase may be particularly effective against an argument from an insurance company that any inflation adjustment is only applied at the time of policy renewal.

Suppose a house fire happened during a period of high inflation, and it takes several years to rebuild the home. What are the policy limits if they "continuously and automatically increase" during the policy period? These potential ambiguities may be an opportunity to argue for increased policy limits, especially during periods of high inflation and in jurisdictions where policy ambiguities are resolved in favor of coverage. The policyholder's argument becomes even more powerful if the insurer elects to drag out the claim after the loss, while replacement costs increase with inflation, rather than promptly paying the stated policy limits.

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