

# Builders Risk Insurance Mastery

Policy setup through claim  
resolution



# Builders Risk: Purpose and Role

## What it covers

First-party property coverage for physical loss or damage to the project: work in progress, materials on-site, and materials in transit (policy wording may vary).

## How it works

Often written on an all-risk basis—broad coverage narrowed by exclusions, conditions, and sublimits—so small carve-outs (e.g., flood, wind, faulty workmanship) can drive outcomes.

## Why it matters

Provides a clear first place to seek recovery, reducing early disputes among project stakeholders, and may extend to soft costs, expediting/extra expense, and delay in completion.



# Align Contracts & Builders Risk Early

Clear terms reduce claims friction and delay

## **Define procurement and cost allocation**

Contracts should specify who buys the builders risk policy, who is insured, and how deductibles or SIRs are allocated after a loss—especially on large projects where retentions can reach seven figures.

## **Confirm first response and subrogation approach**

Clarify that builders risk is intended to respond first to covered physical loss or damage, and include waivers of subrogation to the extent of coverage to reduce disputes and preserve project relationships.

## **Coordinate limits and endorsements to project realities**

Align limits, extensions, and endorsements with scope, schedule, and delivery method (e.g., design-build, phased turnover, early occupancy). Avoid developing contracts and insurance in silos, which often creates gaps, overlaps, and slower claims handling.

# Essential Coverages & Policy Features

## **Core coverages**

All-risk property damage is the foundation, responding to sudden and accidental loss unless excluded. Extra expense and expediting expense address increased costs to finish sooner after a loss (overtime, temporary facilities, expedited shipping).

## **Cost treatment and limit adequacy**

Policies should clearly separate general conditions, soft costs, and administrative expenses; misclassification can drive underinsurance or claim friction. Escalation/increased cost of construction clauses help keep limits aligned in inflationary or volatile material markets.

## **Timing provisions and key exclusions**

Phased completion and period of indemnity terms matter on large projects with multiple turnover dates or temporary occupancy. Faulty workmanship and design exclusions vary widely by carrier and endorsement—wording should be analyzed and negotiated to ensure expected loss response.

# Valuing Hard, Soft & Prep Costs

## **Hard costs (completed value)**

Limits typically track total completed value (labor + materials) and must be updated as scope and pricing change to avoid post-loss disputes.

## **Soft costs & general conditions**

Items like loan interest, taxes, marketing/leasing, fees, inspections, and extension premiums can surge during delays; extended general conditions are often embedded in budgets, complicating claims.

## **Claim preparation coverage**

Reimburses forensic accountants, consultants, and internal resources to assemble complex claims; large projects increasingly carry limits of \$500,000+.





# Managing Coverage for Phased Turnover

## **Know when coverage ends—by portion**

Builder's risk is often keyed to one completion date; phased turnover and partial occupancy can create gaps if not contemplated.

## **Validate key definitions and triggers**

Confirm how the policy defines put-into-use, acceptance, and occupancy—these terms can change applicability and loss measurement (including delay claims).

## **Underwrite to the real phasing plan**

Use a schedule that matches planned turnover and TCOs; addressing this at placement helps keep coverage intact through early operations.

# Exclusions and LEG Endorsements

Faulty workmanship and design are among the most litigated issues in builders risk claims. Traditional policies typically exclude the cost of repairing defective work but provide coverage for ensuing physical damage caused by that defect.

**How LEG modifies the framework:** LEG-2 excludes only the hypothetical cost of correcting the defect immediately before the damage occurred, while LEG-3 excludes only the cost of improving the original design or workmanship.

**Market reality:** U.S. carriers often use proprietary language that may resemble traditional exclusions more closely, making careful comparison essential.

**Case law signals ambiguity:** Decisions such as *South Capital Bridgebuilders* and *Archer Western-Montoya* highlight ongoing uncertainty in how “improvement” and “satisfactory state” are interpreted.

**Practical takeaway:** Understanding these nuances is critical when assessing coverage and developing claim strategy.

# Comparison of LEG Defect Wording

## LEG 1/96

The insurer shall not be liable for:

Loss or damage due to defects of material workmanship design plan or specification.

## LEG 2/96

The insurer shall not be liable for:

All costs rendered necessary by defects of material workmanship design plan or specification and should damage

occur to any portion of the Insured Property containing any of the said defects the cost of replacement or rectification which is hereby excluded is that cost

which would have been incurred if replacement or rectification of the Insured Property had been put in hand immediately prior to the said damage.

For the purpose of this policy and not merely this exclusion it is understood and agreed that any portion of the Insured Property shall not be regarded as damaged solely by virtue of the existence of any defect of material workmanship design plan or specification.

## LEG 3/06

The insurer shall not be liable for:

All costs rendered necessary by defects of material workmanship design plan or specification and should damage

(which for the purposes of this exclusion shall include any patent detrimental change in the physical condition of the Insured Property)

occur to any portion of the Insured Property containing any of the said defects the cost of replacement or rectification which is hereby excluded is that cost

incurred to improve the original workmanship design plan or specification.

For the purpose of this policy and not merely this exclusion it is understood and agreed that any portion of the Insured Property shall not be regarded as damaged solely by virtue of the existence of any defect of material workmanship design plan or specification.

# Calculating Delay in Completion Losses

## **Establish expected net income**

Delay in completion coverage addresses the financial impact of a covered loss that pushes back the project's planned completion date. Start by estimating the revenue the project would generate if fully operational, often using stabilized assumptions (e.g., 95% occupancy for a multifamily building). Subtract saved variable operating costs not incurred during the delay to arrive at net income—the true economic loss caused by the delay.

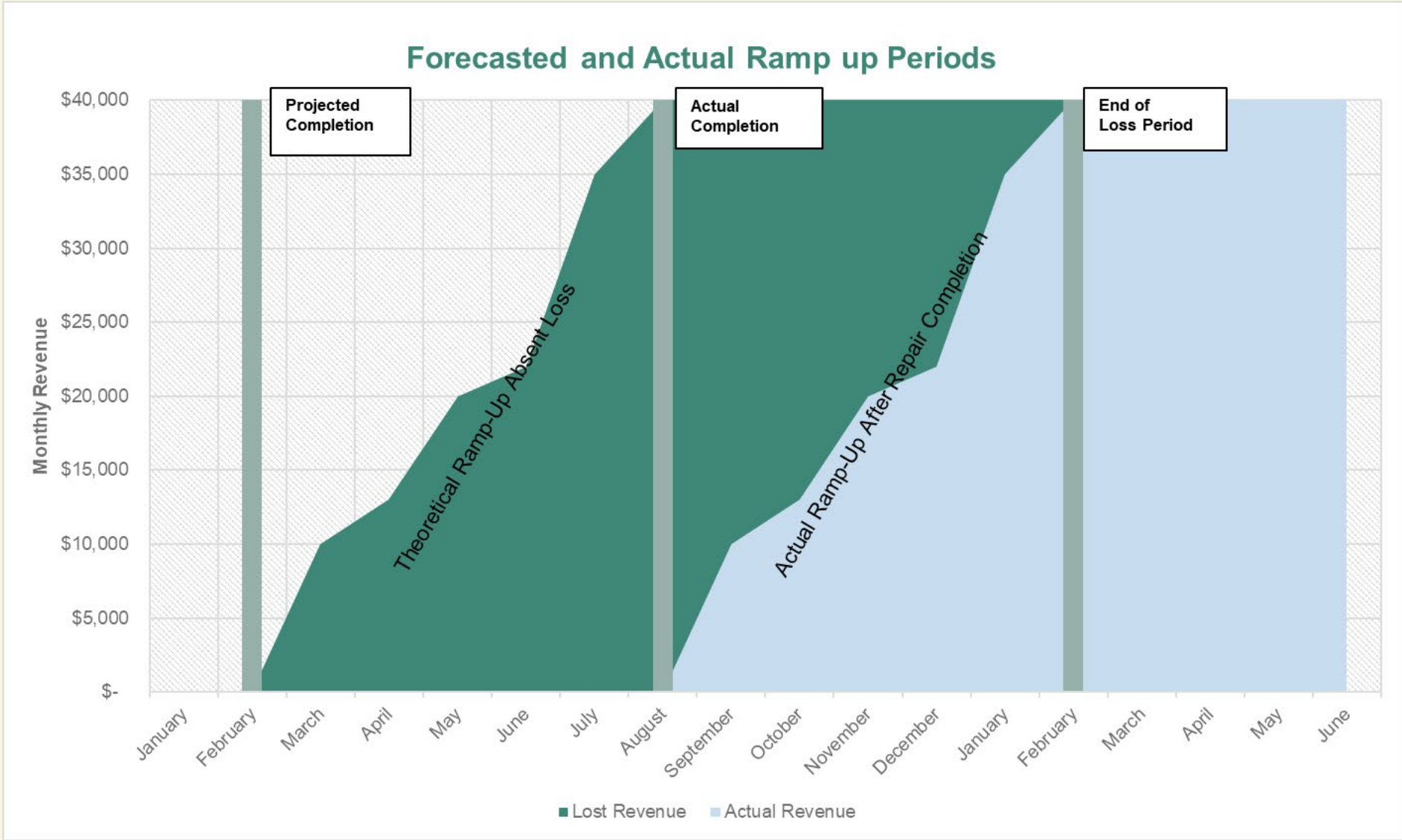
## **Estimate maximum foreseeable loss**

Apply the net income figure over a realistic delay period informed by construction schedules and critical path analysis. The credibility of the exposure estimate depends on a forward-looking timeline that reflects how delays actually propagate through the critical path.

## **Account for policy wording and expertise**

Delay coverage is highly sensitive to policy wording, including waiting periods, sublimits, and how the period of indemnity is triggered. Early involvement of scheduling and financial experts improves calculation accuracy and strengthens the likelihood of recovery.

# Calculation of Loss - Time Element



# Builders Risk Claim Best Practices

## **1) Provide early, proper notice**

Notify both the broker and the carrier promptly and in strict compliance with policy requirements. Do not assume someone else reported the loss—missed or late notice is a common and costly mistake.

## **2) Assemble the response team**

Identify roles early: risk manager, broker, forensic accountant, internal project leadership, and coverage counsel when appropriate. Align on communications, document standards, and decision rights before costs escalate.

## **3) Start documentation immediately**

Emergency work should prioritize life safety and mitigation, but document from day one: photographs, site logs, labor tracking, and cost codes. Clean, contemporaneous records reduce friction and support recoverable costs.

## **4) Address delay impacts early**

Preserve the pre-loss schedule, then track changes to the critical path as conditions evolve. The longer delay analysis waits, the harder it becomes to separate loss impacts from ordinary project variance.

## **5) Focus on repair, not fault allocation**

Even if a subcontractor may ultimately be responsible, early-stage claim work should prioritize efficient repair and well-supported costs. Preserve rights, but avoid letting blame debates delay mitigation and documentation.

# Operational Shifts After Loss

## Complexities beyond change management

A builders risk event adds insurance, schedule, and financial requirements that don't behave like standard construction changes.

## Manage money and responsibility early

Confirm deductible responsibility, plan for delayed reimbursements and cash-flow strain, and anticipate cost-segregation needs.

## Run repairs like a separate project

Use dedicated planning, supervision, and cost codes; sequence repair work with unaffected base work; document and communicate with discipline to protect recovery.



# Coverage Disputes & Litigation Realities

Not all builders risk claims resolve smoothly. Coverage and valuation disputes are common, particularly on complex losses involving delay, soft costs, or workmanship issues.

Policies often contain suit limitation provisions that may be enforceable, requiring careful tracking of deadlines. Adjustments can take months or even years, making tolling agreements an important tool to preserve rights while negotiations continue.

Filing suit does not necessarily end dialogue with the carrier; many claims continue to progress toward resolution even after litigation begins.

Understanding these realities helps project teams set realistic expectations and maintain a strategic approach throughout the claim lifecycle.

# Strategic Lessons for Builders Risk

Mastering builders risk insurance requires a proactive, integrated approach across contract drafting, policy placement, project execution, and claims management.

Align contracts and insurance early, value exposures accurately, and understand key provisions such as phasing, delay, and workmanship exclusions to improve post-loss outcomes.

During claims, report early, document consistently, and coordinate as a team—while setting realistic expectations on timing and disputes—to protect project value and support successful completion.

# Thank You

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