



Construction Market Update Winter 2024/2025



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The construction market has experienced a notable surge in demand, with Dodge Construction Network reporting a 10% increase in construction starts in July 2024, reaching a seasonally adjusted annual rate of \$1.1 trillion. Nonresidential starts rose by 25% and infrastructure by 19%, indicating robust growth in these sectors.¹ Despite an 8% drop in residential starts in July, they rebounded by 9.6% in August, although challenges such as lot availability and labor shortages persist.²

Industry sentiment has been further buoyed by the Federal Reserve's additional quarter-point rate cut announced in December 2024, which was also reduced in September and November, bringing the federal reserve funds rate to 4.24%–4.5%. This is expected to reduce borrowing costs and make projects more financially attractive. This rate cut has already spurred a significant increase in mortgage refinance applications, indicating a positive impact on residential construction.³

However, the construction industry remains highly localized, with significant regional variations. For instance, the top ten specialty contractors in New York and New Jersey reported a 30% revenue increase last year, while their counterparts in New England saw a 33.3% revenue decrease.⁴ Looking ahead to 2025, the greatest growth is anticipated in healthcare, education, and data centers, driven by an aging population and advancements in cloud computing, AI, and 5G technology. The clean energy sector is also expected to grow significantly to meet the rising power demands of data centers and electric vehicles.

Despite these positive trends, the industry faces challenges such as a shrinking amount of design work, as indicated by the AIA/Deltek Architectural Billing Index, which showed a reading of 45.7 in August. Additionally, the potential long-term impacts of post-pandemic work-from-home trends on commercial real estate could affect insurer balance sheets and profitability.⁵

Overall, while the construction market shows strong growth potential, it must navigate various challenges and regional disparities to sustain its momentum.

Builder's Risk and Property Insurance

General property insurance

2024 was a surprising year. Catastrophic rates were largely driven by fear of natural disasters. NOAA was forecasting 17–25 named storms and 4–7 hurricanes reaching Category 3 or higher in the 2024 season.⁶ That forecast was supported when Hurricane Beryl became the earliest storm on record to reach Category 5 due to record-breaking water temperatures in the tropics.⁷

Compared to 2023, the market shows a steady decrease of Property Insurance rates as show in the charts below. The shared property rate chart shows an increase as this reflects larger, longer term and more complicated projects with multiple carriers involved.

Actual rates depend on the asset being insured. While some rates have gone up as much as 10%, premium office space with strong rent rolls and low crime scores has declined as much as 5%. Also, there has been some normalization to properties that suffered the worst in increases in 2023, such as wind-exposed assets in Florida, where the rates are now decreasing. Due to liability concerns, however, rates in multifamily placements are rising in the 10%–20% range with smaller increases (10%–15%) for excess layers.⁸

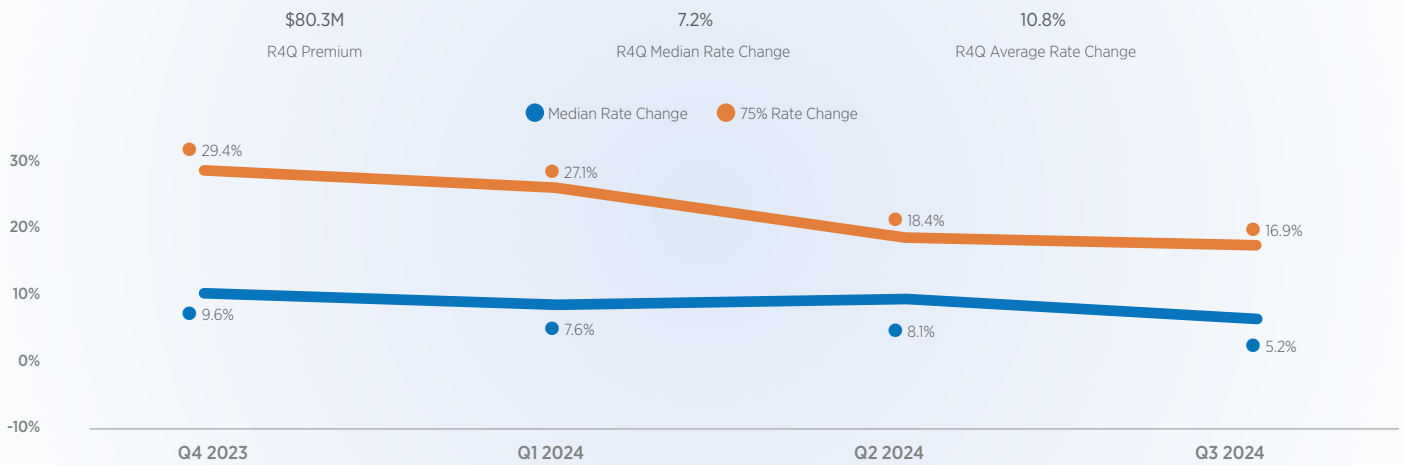


We are also seeing increased exclusions on liability claims — particularly for dog bites and sexual or other abuse.⁸ These exclusions are in large part due to preliminary reports suggesting that 2024 underwriting performance has improved in some areas and loss ratios have declined.⁹ Indeed, carriers are reporting record net income and significant premium growth.

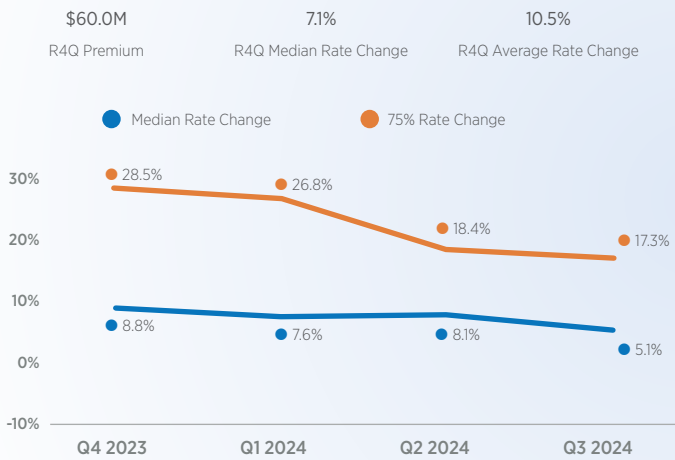
However, property insurers still struggle with the effects of inflation and property valuations. As the National Association of Insurance Commissioners (NAIC) recently explained to Congress, “Property insurance costs reflect the underlying cost of claims, which include construction materials, underlying home values, the cost and availability of labor, the impact of litigation, and other factors. Put another way, insurance claims reveal the impact of inflation on the things we insure, which in turn is reflected in the price.”⁹

One important consequence of these factors is that many property owners may not be in compliance with covenants requiring them to insure properties up to a certain percentage of the replacement property value. Specifically, if the cost of labor and materials necessary to rebuild a property has gone up over the last several years, the policy limits must also increase, but many owners neglect to update their policies to reflect the increased value.¹⁰

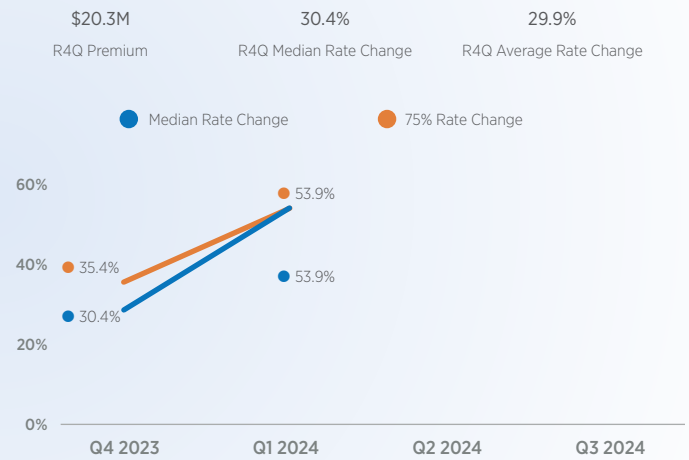
PROPERTY RENEWAL RATE TRENDS



SINGLE-LAYER PROPERTY RENEWAL RATE TRENDS



SHARED PROPERTY RENEWAL RATE TRENDS



Residential property insurance

The residential market is different from the commercial market, and residential rates rose 23% in calendar year 2023.¹¹ We have previously reported on insurance companies pulling out of the California market and Florida's residential property insurance woes. New York is also under strain. Homeowner insurance rates are predicted to rise an average of 6% this year, but the largest increases are occurring in states prone to natural disasters.¹² This has caused many carriers to pull out of the market.

Builder's risk

Contractors are mostly concerned with builder's risk insurance, which is a form of property insurance designed to address the unique risks of property under construction. In the first half of 2024, we have seen increasing capacity in this market, but Florida and New York have capacity constraints for Catastrophic (CAT) coverage, either due to reduced line sizes or sublimits.¹³

Water damage, fire, and theft are large sources of losses on Builder's Risk coverage. Accordingly, we are seeing higher rates in high-crime locales and areas prone to wildfires.¹³ We are seeing issues with insuring wood-framed structures — particularly in the west.¹⁴

Some risks covered by Builder's Risk dovetail with coverage under Commercial General Liability policies, which generally provide coverage if a defect in one part of the work damages other work — such as when a roof leak leads to water damage within the structure.

We believe that rates for both kinds of insurance are likely to rise on renewable energy projects. A recent report found that contractor errors and defective work on such projects are leading to an increasing share of claims — rising from 55% in 2020 to 63% in 2022.¹⁵ The impact of these errors on renewable projects tend to be greater than on another project. Well documented examples exist of wind turbines failing due to defects in the blades. This may be a function of relatively new technology making those projects riskier, but the risk still lies with the contractor who supplies that technology.

Climate change and insurance

The art of underwriting is the art of pricing risks. While many risks have historical precedent, others involve predictions that have no precedent in our recorded history. Climate change is just such a risk. For example, scientists have theorized that climate "tipping points," like the collapse of Antarctic sea ice could result in a sudden and catastrophic sea rise of up to 2.3 meters (7.5 feet).¹⁶ Such an unprecedented rise would be catastrophic in low-lying areas, such as Miami, Florida, which has an average elevation of only 6 feet above sea level.¹⁷ At this point, those events do not seem to be priced into property rates.

NASA reports that actual sea level rise over between 1992 and 2022 was 3.98 inches (0.13" per year) and 0.15" over the last 10 years.¹⁸ At the current rate of 0.15" per year, seal levels would rise 7.5" over the next 50 years. Accordingly, current premiums do not seem to account for the possibility of catastrophic sea rise from a tipping point. But that could change if there were a sudden event causing a significant change.



General Casualty and Excess Liability

Commercial General Liability (CGL) policies protect against claims for property damage (other than the work during construction, which is covered by Builder’s Risk) and bodily injury to persons other than your employees (who are covered by workers’ compensation).

Social inflation refers to the rising costs of insurance claims driven by increased litigation, expanded liability, and larger verdicts.¹⁹ In 2023, social inflation rose 7%, largely due to nuclear verdicts (\$10 million or higher) — this is about twice as much as in the preceding 10 years. Indeed, 2023 saw 27 juries hand down “thermonuclear” verdicts of \$100 million or more.²⁰

This has impacted both costs and capacity. Rates have increased, with annual price increases reaching an annual rate of 7% in the first half of 2024.²⁰

General liability insurance is sold in layers, with a primary policy that covers defense of the claim with typical limits of \$1–2 million. Insurance for claims above that amount is supplied by excess or umbrella policies that are often stacked to create an insurance tower. One report has indicated that concern over nuclear verdicts has caused insurers to reduce excess coverage they are willing to provide, thus causing liability towers to decline by 25% since 2014 (or 46% in real terms after accounting for inflation).²⁰

Liability capacity is often provided through re-insurance where the insurer purchases insurance from a reinsurer to cover losses above a certain amount. Many reinsurers meet at the Rendez-Vous

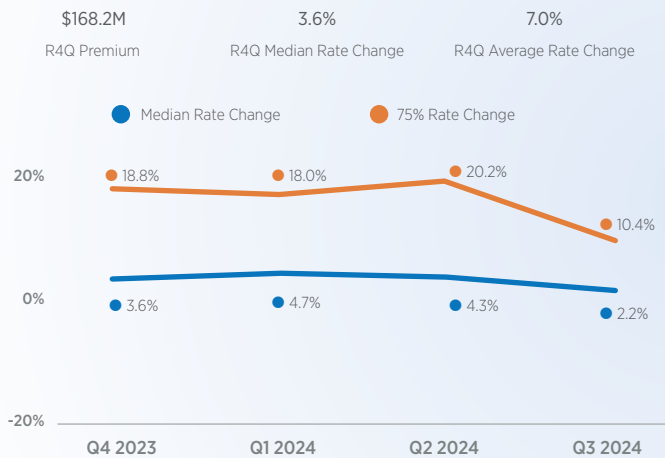
de Septembre. While other reinsurance sectors were fairly stable, participants at the Rendez-Vous reported concerns over commercial liability risks in the US — again due to social inflation, nuclear verdicts — and the lack of tort reform to address those issues.²¹ Several larger Reinsurers also indicated a willingness to leave the US market, which could significantly impact capacity and rates.

Despite these challenges, excess and surplus lines have been growing in the US²² In 2023, that growth was only 14.5%, which is below prior years. However, this reflects a 5%–12% increase in excess rates for contractors.²³

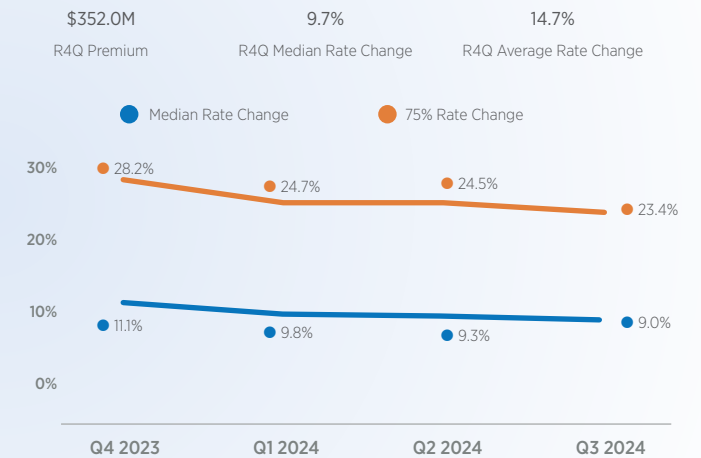
We continue to recommend that insureds manage these risks through:

- A relentless focus on safety.
 - » Maintenance and updating of written Health and Safety Policies.
 - » Hot washes, or post-incident review and analysis, are incorporated into those written plans.
- Loss mitigation, including on-site medical for larger projects and early-return-to-work policies.
- Quality control efforts to reduce claims from defective work.
- Bundling primary and excess policies.
- Looking to multiple markets for insurance. London, Bermuda, and domestic carriers are all competing for premium dollars, and your broker should be looking at all available markets.

GENERAL LIABILITY RENEWAL RATE TRENDS



UMBRELLA AND/OR EXCESS LIABILITY RENEWAL RATE TRENDS



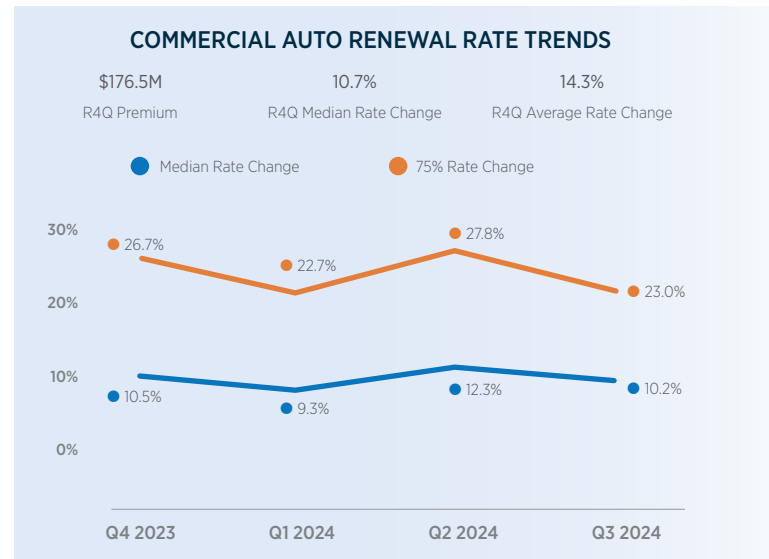
Auto Liability Insurance

Automobile insurance premiums are continuing to increase due a number of factors, including increasing costs of auto parts and labor for repairs.²⁴ Between July 2019 and July 2024, the cost of parts has increased 24.1% while repair costs have increased by 20%. Also, increased speeding since the pandemic has led to more severe crashes, increasing claims for medical expenses and pain and suffering.²⁵ As with other liability insurance, social inflation has also impacted rates with the average personal injury award increasing 319% over the last decade.²⁴

As of the end of August 2024, the Bureau of Labor Statistics reports that the cost of urban personal car insurance has increased by 16.5% over the preceding August and 7.6% year to date.²⁶ Commercial rates for contractors have been in line with consumer rates increasing 8%–18%.²³ In fact, according to the CIAB survey, commercial auto insurance premiums rose more than any other insurance classification through the first half of the year at an average of 9%.²⁷

For commercial vehicle fleets, rates can be reduced by an uncompromising focus on safety. This includes “telematics,” to track driver behavior. These systems often use cameras to monitor drivers for lack of focus, and distractions like eating, drinking, and phone

use. One online shopping company that delivers packages to buyer’s homes rates each driver for safety as well as promptness and drivers with better ratings get more routes, while those with poorer ratings often find themselves without work on light days, thus aligning safe behavior with financial incentives.



Professional Liability/Errors & Omissions

Professional liability insurance — as the name implies — protects architects, engineers and construction managers from claims for professional negligence. This market continues to tighten. As of March 2024, three quarters of professional liability carriers planned to raise rates by up to 5%, but others planned on higher rate increase.²⁸ Carriers are also seeking higher Self-Insured Retentions (SIR) of around 0.5% of A&E firm gross revenues. These carriers are getting particularly skittish about claims on design-build projects.²⁹

Professional and Pollution Liability rates for contractors, however, have held relatively steady with rate increases of 0%–5% in the first half of the year, and slightly higher rates forecast for the remainder of the year.³⁰

As with other forms of liability insurance, premiums increases are being driven by social inflation, but also claim severity is affected by increases in the cost of labor and materials to fix errors and omission. The most expensive claims involve structural engineering followed by civil engineering.²⁸

Design professionals can address these costs in a number of different ways. First, is to work on internal QA/QC procedures to avoid errors in the first place. Second, we understand that design firms are often pressured by owners unwilling to pay design costs, but designers need to sell owners on the importance of that investment. We are seeing anecdotally that many projects are going to bid with rudimentary MEP designs and the expectation that the contractors will complete the design either as part of a formal design-build scope or through the submittal process. Design professionals need to be very express in their agreement that their scope of work anticipates such limited design efforts and limiting their liability accordingly.

Designers should also bargain with owners for reduced coverage requirements and limitations of liability that do not exceed amounts paid by the carrier. Finally, there may be ways to stack primary and excess policies to reduce overall premium costs.

On design-build projects, we strongly recommend that owners and contractors procure protective policies that can protect them if the designer’s policy does not respond fully to design E&O claims.

Workers' Compensation

Workers' compensation premiums have been the brightest spot for contractors with little to no price increases.²³

There are four things employers can do to reduce their rates:

1. Reduce Experience Modification Rates (EMR) through a relentless focus on safety. This includes training, use of wearables, better analytics through AI, and appropriate discipline for safety violations.
2. Reducing litigation through Gallagher Bassett's Waypoint Litigation Avoidance Model. Only about 10% of workers' compensation cases end up in litigation, but that accounts for about 60% of all claims costs.³¹ The Waypoint system has used AI to identify claims that are likely to end in litigation so that expert teams can intervene and resolve the case before it goes to litigation.
3. Increased use of robots and other technology to reduce injuries from lifting and repetitive motion injuries.
4. Bundling workers' compensation and other insurance with carriers, who will often provide a discount for bundled coverage.

Cyber Liability

As business organizations and individuals have become reliant on computer technology to run their businesses, cyber attacks have become a question of "when not if." Shockingly, however, 90% of cyber risks were uninsured at the end of 2022.³² The lack of coverage is concentrated in Small and Medium Enterprises (SMEs), while larger organizations (defined as 100-plus employees or \$50 million in revenue) almost all have some form of cyber-insurance coverage. Unfortunately, many companies do not have a good understanding of their coverage — with 40% reporting that they were unsure if they were covered for a ransomware attack.³³



Cyber Coverages

No business should be without cyber coverage, including both first-and third-party coverages. “First-party” cyber coverage protects the insured from losses like lost business income and data recovery costs. “Third-party” cyber insurance covers your legal liability to third parties in the event of a cyber-breach, such as losses from failure to protect your client’s sensitive data or allowing malware to infect a third party’s network.

The industry has yet to develop standardized forms, but there are standardized coverage types that every business should consider, including:

- Ransom payments
- Data recovery
- Computer systems restoration
- Breach notifications
- Public relations support
- Incident response support; and
- Income loss

There are also some more boutique coverages, including:

- Coverage for damages resulting from the wrongful collection of personal data.
- Contingent business interruption, which covers losses caused if your suppliers are impacted by an attack.
- Invoice manipulation, which covers losses resulting from changes to invoices or payment instructions you receive.

Cyber rates and market

Up until 2023, cyber insurance premiums were increasing at a rapid pace, but they moderated in 2023, and it appears the market is continuing to soften with lower rates despite greater claims activity.³⁴ This is largely due to better cyber defenses and smaller payments. One concerning trend is an increase in the number of policy exclusions and sublimits — particularly with respect to biometrics.³⁴ However, other sublimits, for example on ransoms have been rising. Cyber coverage has been difficult to obtain, but investing in cybersecurity has a double benefit when shopping for policies. First, it makes it more likely that you will be able to procure coverage, and secondarily, it helps to reduce the price of that coverage.³³ Good cyber hygiene has the more significant benefit of stopping attacks so that you hopefully do not need to call on your insurance. In short, cyber security is an investment, not an expense.³⁵



Cyber loss control

To limit claims, we recommend not only that parties engage appropriate consultants to make sure their systems are up to date, but that they consistently monitor the Federal Cybersecurity & Infrastructure Security Agency (CISA) website for alerts and suggestions on mitigating cyber risks.³⁶

Insureds should also develop:

- **Incident response plans.** These should include identification of key personnel with current contact information and identification of necessary steps to respond to an attack. The plan should include responsibility for contacting insurance representatives and counsel, as well as law enforcement. Some attacks involve funds transfer, so banker contact information should be included. Please be sure to have hard copies available so that a cyber-attack does not prevent you from accessing your plan.
- **Strong vendor relationships.** This includes cyber-security consultants, software vendors, and other vendors identified in your response plan — such as Public Relations experts.
- **Procedures to ensure that all security patches are promptly installed on your systems.** Consistently update software to have the latest security patches and implement the most recent best practices.
- **User training.** Many systems become infected because an employee clicks in response to a phishing scheme or does something else they should know not to do. All new hires with network access should be trained in cybersecurity measures, and re-training should occur on a regular basis.

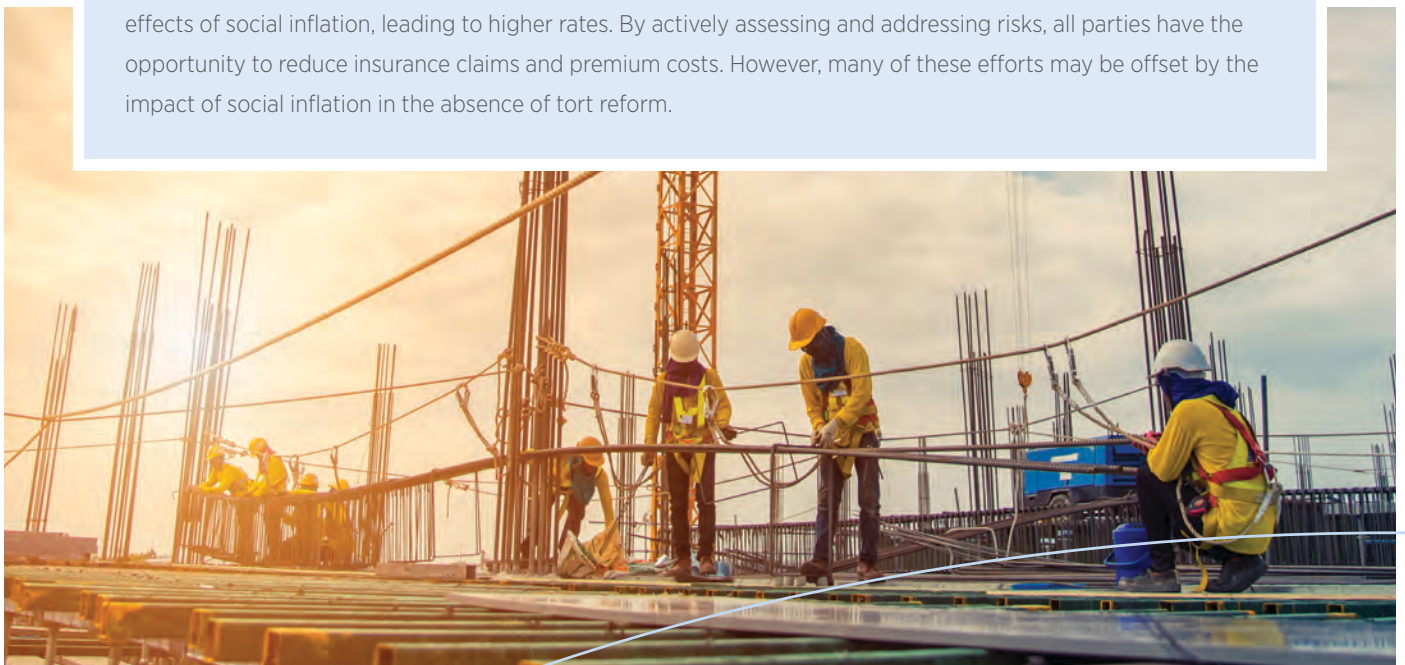
Software supply chains

An emerging cybersecurity concern involves software supply chains. Companies purchase software from multiple vendors, and cyber criminals are targeting those vendors, trying to infiltrate their software so that they can gain access to the companies' systems. Indeed, current estimates are that by 2025, about 45% of all companies will have experienced attacks through their software supply chains.³⁵

Conclusion

Both the construction and insurance markets are strong.

Insurance rates in workers' compensation continue to hold steady or decline while property insurance rates have surprisingly held steady or dropped. Liability insurance, particularly in the auto sector continues to suffer the effects of social inflation, leading to higher rates. By actively assessing and addressing risks, all parties have the opportunity to reduce insurance claims and premium costs. However, many of these efforts may be offset by the impact of social inflation in the absence of tort reform.



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