**Summary of Commonly Asserted Insurer Defenses**

|  |  |
| --- | --- |
| **Defense** | **Notes** |
| Ongoing Operations Limitation | Coverage limited to damages occurring during the trade’s ongoing operations. |
| Occurrence Trigger – Outside Policy Period | Georgia recognizes four triggers, per Arrow Exterminators, Inc. v. Zurich American Ins. Co., 136 F. Supp. 2d 1340, 1345-46 (N.D. GA. 2001):   1. Exposure Trigger – “coverage is triggered when injury-producing agent first makes contact with the property.” 2. Injury-In-Fact Trigger – “coverage is triggered at the point in time when actual injury first occurs.” 3. Continuous Trigger – “all liability policies in effect from the exposure to manifestation provide coverage and are responsible for the loss. 4. Manifestation Trigger – “coverage is triggered only when damage occurs and is discovered, that it ‘manifests’ itself as readily obvious, within the policy period.” |
| Classification Limitation | Some policies limit coverage to or exclude coverage for specific types of work or specific types of projects. For example:   1. construction of residential property not exceeding 3 stories in height; 2. contractors-subcontracted work in connection with construction, reconstruction erection or repair of buildings; 3. condominium construction. |
| Contract Liability Exclusion | Coverage is excluded where the insured is obligated to pay by assumption of a contract. |
| Business Risk Exclusion | Coverage is excluded for damage to an insured’s own work. |
| Mold Coverage | Excludes coverage for property damage which would not have occurred ***in whole or in part*** from contact/exposure/existence/presence of mold.  Many policies provide limited mold coverage by separate endorsement. |
| Subsistence Exclusion | Excludes damage due to “earth movement.” |
| Timely Notice | Insured is required to notify the carrier “as soon as practicable” of an occurrence or claim.  Georgia does *not* require that the insurer show prejudice to invoke a notice defense as a precondition to coverage. |
| Loss Location | Some additional insured endorsements are limited to a particular location. |
| Voluntary Payment Condition | Excludes coverage for payments or repairs made voluntarily and without notice to the insurer. |
| No Written Contract | Some AI endorsements require a written contract creating the trade’s obligation to designate the general contractor as an additional insured. |