

# *Check Your Insurance Before Flying a Non-Owned Aircraft*

*By Terry McDowell*

Do you fly someone else's aircraft? Are you covered? Simple question? Maybe not.

Many aircraft owners routinely let their friends or other pilots fly the owners' aircraft, but the non-owners never consider their insurance requirements. According to American International Group (AIG), there are approximately seven pilots for each registered aircraft in the general aviation database. Most pilots need to rent or borrow an aircraft to indulge their passion. Aircraft owners are typically protected by their aircraft insurance policy when they fly, but what about the pilot who is just borrowing or renting an aircraft? The answer is "It depends."

Many aircraft insurance policies have an Open Pilot Clause, which specifies the minimum requirements for any pilot to fly the aircraft. With the owner's permission, a pilot who meets the specified requirements may use the aircraft. There is no requirement to notify the insurance company in this case. However, a pilot who does not meet the Open Pilot Clause would have to be approved by the company as a Named Pilot. A significant distinction is that the Named Pilot is a pilot who has been approved by the insurance company and will not void the policy.

It is important to understand that being a Named Pilot does not mean the same thing as being the Named Insured. A pilot other than the Named Insured may be approved to fly the aircraft. However, if the pilot's negligence is proven to be the cause of a loss, the insurance company may attempt to recover damages through the process of subrogation against the pilot.

How can you protect yourself against that? One way is to be named as an Additional Insured with a Waiver of Subrogation on the owner's policy. That is not always in the best interest of the Named Insured (a topic for a different article). Another method would be to purchase a Non-Owned Aircraft Liability and Non-Owned Physical Damage Policy.

AIG Aviation offers a comprehensive Non-Owned Aircraft Liability and Physical Damage policy through its member companies for single-engine piston aircraft. This coverage is designed for Renters, Non-Owners, and Flight Instructors. Company employees who occasionally use a rental aircraft for their employer's benefit have the option of adding the employer as an additional insured. Recently, AIG has made Non-Owned Rotorcraft coverage available.

Non-Owned Aircraft coverage for companies and corporations is also available through Phoenix Aviation Managers and W. Brown & Associates. Phoenix Aviation Managers offers coverage for all types of turbine-powered aircraft if professionally flown, and even for some owner-flown aircraft. W. Brown & Associates also offers coverage for

corporate Non-Owned Aircraft Liability with limits up to \$100 million combined single limit (CSL).

Non-owned Aircraft Liability and Non-Owned Aircraft Physical Damage are the two types of Non-Owned coverage. We will look at each one separately.

### **Non-Owned Aircraft Liability**

Non-Owned Aircraft Liability provides coverage for bodily injury and property damage to others for which you may be liable, arising out of your use of Non-Owned Aircraft. It excludes the physical damage to the Non-Owned Aircraft. Premiums are listed on AIG's application for Non-Owned Aircraft (fixed wing). For Non-Owned Rotorcraft, the application must be submitted to the underwriter. A quote request for Phoenix or W. Brown coverage must go through your agent and the underwriting process.

### **Non-Owned Aircraft Physical Damage**

Non-Owned Aircraft Physical Damage provides coverage for the physical damage to the Non-Owned Aircraft for which you may be liable. This is only available in conjunction with liability coverage. AIG includes "Deductible Liability" as part of the physical damage coverage. Deductible liability covers the insurance deductible on the owner's or lessor's aircraft that you rent or borrow, up to \$5,000 for each occurrence regardless of fault.

### **Don't Give Away Your Rights!**

Policies for flight schools typically require that flight school operators submit their rental agreements to the insurance company prior to inception of the policy. The underwriter wants to be assured that the operator is not giving away important legal rights in the rental agreement. Some rental agreements make the renter responsible for deductibles. Others require Non-Owned coverage for the renter. It is always a good idea to run any aviation contract by your attorney, your aviation insurance agent, and then the insurance company prior to signing it. Also, be careful what you sign at a fixed base operator (FBO). Even a fuel request form can contain legalese that takes away your rights. Anytime you see "Hold Harmless" language in a use agreement it should be a red flag for you.

Without the right insurance coverage in place, a pilot borrowing or renting an aircraft may be held personally responsible for paying the cost of bodily injury claims or property damage losses. To make sure you have the proper protection, your best option is to contact your aviation insurance agent. →