Improper Insurance Renewal Negotiations Could Be Your Own Fault

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Whether you are negotiating your aircraft insurance for the first time or have owned aircraft for years, you may be the magic link to better insurance and lower premiums.

For those that have owned aircraft for many years, the renewal process is "old hat." You have answered the same questions every year and received the same sermon about getting your information updated in a timely fashion. You have heard the same excuses from your agents about the number of insurance underwriters and your renewal pricing. You have gone through this process assuming your insurance agent has the experience and knowledge to impress the underwriting community with your risk and to negotiate your best insurance placement. So, there is nothing more to do, right?

Your assumption of agent competence may be correct. You may be doing business with a true aviation insurance specialist or you may not. I must say, all insurance agents were not created equal.

If you have not been made a part of the renewal process, you may have reason to question. Maybe you should take control of the process and help your agent prepare the underwriting submission for the underwriter.

What should the agent and underwriter know about you and why?

Will the Real Aircraft Owner Please Stand Up?

There seems to be great confusion about who the registered owner of an aircraft is and who should be the "Named Insured". Is your aircraft owned by a proprietorship, a partnership, a legal liability company (LLC), or a corporation? This affects how you show the named insured on the insurance policy. It also affects the second named insured and/or the additional insureds.

If your aircraft is owned by an LLC or a corporation, then who are its members or stockholders and what is their relationship? This may have great impact on the way your agent structures the named insured or additional insured.

Is your aircraft owned by an LLC and flown on behalf of a parent corporation? Does the parent corporation reimburse the LLC for operational expense? Should the parent corporation be included as an additional insured and does the policy need to be endorsed allowing for cost reimbursement of expenses? Should the LLC have a dry lease agreement with the parent corporation?

Who actually operates the aircraft and what is their relationship to the registered owner? Is the pilot an employee of the parent company? Is he a stockholder of the parent company or the LLC or corporation that is the registered owner of the aircraft? Does he need to be included individually as an additional insured?

If the pilot is an employee of the parent and primarily carries other employees as passengers, can the underwriter waive the "fellow employee exclusion" which is found in many (not all) policies?

These questions and more should be discussed during the underwriting process, or you might be leaving an important area vulnerable in the event of the unthinkable.

The most experienced aviation insurance specialists will occasionally fail to ask all the questions needed to negotiate proper set-up and to negotiate the best coverage. Often, I ask leading questions in my fact finding effort only to be told by the client that he has not yet made a decision as to ownership structure. Usually, these decisions will be tax driven allowing the CPA to dictate the structure. This is great for the tax benefits but dangerous when structuring liability concerns. Perhaps you should include an attorney in these decisions who, like an insurance advisor, is more concerned about liability protection and less about tax structure. It is up to you to balance the two approaches to serve your best interest.

Operational Interest

Insurance buyers often do not disclose to the agent or underwriter those who have an operational interest in their aircraft. This can be a company that employs the aircraft owner and reimburses operational expense to an LLC or shell corporation. It may be a business partner or just a business associate who utilizes the aircraft. In these and other situations, special handling must be arranged with the underwriter to avoid interruption of insurance coverage. In addition, the FAA has stringent requirements involving the reimbursement of operating expense and the employment of pilots.

Insurance protection for these entities can be given in many situations by adding the individual, LLC or corporation as an additional insured to the aircraft owners policy. If the additional entity has true operational interest in the aircraft, responsibility for loss to the aircraft itself may be partially contained by the insurance company by adding a waiver of subrogation on the hull.

Passive Interest

A bank, leasing company, landlord or other party may hold passive interest in an aircraft. Many of these entities have a less vivid exposure to loss because they are not causing the operation of the aircraft. They do have a vicarious liability, however, simply because they are a facilitator. They can obtain some protection by being added as an additional insured under the owner's policy.

Related Contracts Require Thought

Often owners are required to sign contracts relating to their aircraft or its safe operation. Some involve hangar facilities; others involve maintenance, dry leases, pilot services, aircraft management, etc. Each of these contracts will include an insurance section and an indemnification section. Each has an effect upon your insurance coverage and may require a certificate of insurance verifying coverage. If your agent plans to shop your renewal with several different underwriters, each should have the benefit of reviewing all current contracts for approval. As a matter of fact, many insurance policies require underwriter approval for such things as waivers of subrogation and additional insureds.

Hull Coverage

A bit of knowledge here can save a lot of frustration. Most aviation underwriters use the "Aircraft Price Digest," "The Bluebook," as a guide in approving a requested value of an aircraft. Often this reference can be very misleading. I actually received an offer to purchase my aircraft for $875,000 and the "Bluebook" valued it at $740,000.

Avoid the discussion. Ask your insurance agent to pull his "Aircraft Price Digest" (Bluebook) out of his drawer and give you an estimate of your aircraft value. (If your agent doesn't have a "Bluebook" you may need to find another agent.) If the "Bluebook" evaluation greatly differs from your estimated aircraft value, don't wait. Go to work developing a meaningful information sheet outlining additional avionics and other equipment that has been added to the aircraft that would affect its value. Also list any modifications, including an outline of aircraft condition, engine times, total airframe time, and age of paint and interior. This will give the underwriter the information he needs to make an exception in valuing your aircraft, if one is necessary.

Mark Your Territory in Advance

Most insurance policies issued in the U.S. include the United States, Canada, and Mexico. Some also include the Islands of the Bahamas. Other territories can also be added depending upon the capability of the insurance company and the capability of the flight crew who will be operating the aircraft.

If you anticipate needing additional territories, ask for them at renewal. Often these expanded territories can be added for no additional premium if requested prior to policy inception. If done during the term of the policy, many underwriters will make the owner pay an additional premium charge. Why? An additional premium charge is made to cover the cost of the policy handling and, in some cases, just because they can.

Going to Mexico?

If you plan to travel to Mexico during the policy period, it is preferable to let your agent and underwriter know at renewal time. Although your basic insurance policy includes coverage for Mexico, the Mexican government requires a certificate of insurance written in Spanish and preferably issued on a Mexican insurance company. An additional premium charge will be made in most cases depending upon the underwriter's arrangement with their corresponding Mexican insurance company or a policy can be issued by a separate insurance facility that specializes in Mexican certificates. It is usually most cost effective to purchase an annual policy rather than a per trip policy. Last minute transactions may be more costly than purchasing a Mexican policy in advance.

War Risk and Allied Perils

If Mexico is in your travel plans, the War Risk coverages are a must. This includes such exposures as confiscation and seizure of the aircraft by a government. Due to the unstable environment south of the U.S. border, this coverage is a must.

Regardless of your travel plans, we recommend to our clients that they include the War Risk coverages (both War Hull and War Liability). The costs are nominal and the coverage gaps that are removed are enormous.

Premises Liability when Renting or Leasing a Hangar

Most underwriters will offer to endorse an aircraft hull and liability policy for premises liability allowing certification of coverage to the landlord. If negotiated prior to renewal, this coverage can, in some cases, be included at no additional premium charge. If done as an afterthought, the underwriter will usually make a premium charge. This could cost $600, $750 or more.

Your agent will not know what your landlord requires and should not be expected to ask enough random questions to search out every little facet of your insurance needs. You must volunteer the information.

What about the Pilot?

Pilot qualifications may be the most important information you can provide and may be the single biggest influence upon the premium you will negotiate. Here is where your help is mandatory. Your agent needs your input when building your underwriting submission.

Every company has its preferred pilot questionnaires. You know those pesky forms that ask all those nosey questions? How old are you? Do you have a current medical? Have you had any losses, accidents, violations, or suspensions? This is an important one. If the answer is yes, take a second sheet of paper and write a statement for the underwriter explaining the situation. If you have any additional documentation, include that. You are building a case and justifying to the underwriter that the situation was not as bad as it sounds.

I have had insurance applicants who have been violated by the FAA in the past. Upon investigation, I find that it may have been 10 or maybe 15 years earlier. It may have been when they first started flying but since, they have had a blemish free flying history. Help your agent argue your case. Don't just lie down and get kicked without a fight.

What Type of Passengers do You Usually Carry?

This is a question that is very meaningful but seldom asked. This is a common sense discussion. If you fly mostly alone, your passenger exposure is minimal. Understanding that most aircraft bodily injury claims are due to passenger injuries, this average load factor should be disclosed to the underwriter. If you are usually on business and only carry employees as your passengers, this should also be noted. Why is this important? If you are a business owner and the company aircraft (the aircraft is registered in the company name and the company is the named insured) is primarily transporting its employees, your aircraft liability policy is not exposed to the employee passenger liability. That would be covered by workers compensation which is deemed to be sole remedy in most states. You see, the aircraft underwriter has far less exposure than if you were transporting non-employee passengers who could sue and collect under the policy. What is the effect? Slightly lower premiums may be the result. Again, help your agent help you.

Be careful here. If the aircraft is owned in an LLC and the employees are actually employed by a parent corporation, workers compensation only serves as sole remedy for the actual employer.

But there is another caveat. The fellow employee exclusion exists in many policies. This exclusion eliminates coverage for employee vs. employee lawsuits. As an example, an employee passenger is injured as the result of negligence of an employee pilot. This pilot could be the owner of the company. As mentioned above, the employer company itself would be protected by the workers compensation as sole remedy. But, the injured employee passenger could still sue the employee pilot. If the fellow employee exclusion exists, the policy would not defend an employee vs. employee lawsuit.

Some insurance companies offer broad form policies to certain classes of risk that do not contain the fellow employee exclusion. Some underwriters are willing to remove this exclusion from their standard policy form by endorsement. Many will not modify the "fellow employee" exclusion at all.

The point to this discussion is for you to advise your agent of your needs. This must be dealt with before your underwriter is selected and prior to renewal. If an underwriter cannot offer fellow employee coverage, you must select a different underwriting facility. The time to make this decision is before the renewal is negotiated.

Help your agent help you. Be proactive. You should volunteer information. The renewal questionnaire is just a guide and cannot be expected to cover all situations. Talk with your agent/underwriter and look at this exercise as an opportunity to protect your assets and save money. Ask questions. You may be the one that has to lead the discussion. ✈