

INSURANCE FOR USE OF NON-OWNED AIRCRAFT

There are a lot of inquiries indicating some confusion about what Non-Owned Aircraft Liability insurance is and who might need it. The types of exposures vary depending on the individual or corporation involved and the uses of the aircraft. We will address some of the issues in a Question & Answer format.

Note: These articles are purely advisory in nature. Actual policy wordings may vary and each specific policy should be reviewed with regard to any comments made herein. Also, applicable laws may vary by jurisdiction.

Who needs Non-Owned Aircraft Liability Protection?

You do, if you or your organization use an aircraft that you or your organization do not own, even if you are only a passenger, and are not protected under the aircraft owner's insurance policy or elsewhere.

What are some examples of non-owned aircraft exposures?

A person or organization that charters an aircraft (pilot furnished by the aircraft owner), whether for personal or for business use.

A pilot who rents an aircraft from the aircraft owner (e.g., from a Fixed Base Operator - FBO).

A student pilot taking instruction in someone else's aircraft.

A Certified Flight Instructor (CFI) providing flight instructions in a customer's aircraft.

A pilot who borrows an aircraft, even though an approved pilot.

A mechanic who is test flying a customer's aircraft

Someone who is ferrying or delivering an aircraft for someone else.

A Fixed Base Operator (FBO) providing flight instruction in a customer's aircraft.

An independent professional contract pilot operating an owner's aircraft.

A person who is operating the aircraft when a loss occurs, even if accompanied by the aircraft owner/pilot.

How likely will there be protection under the owner's insurance policy for a "non-owner" user?

It depends on your connection to the aircraft owner, whether there are adequate limits, what the owner's policy says about protecting you, the use of the aircraft, etc. Are you the pilot? If you are in the aircraft in your capacity as someone in commercial aviation, you most likely do NOT have protection.

Why wouldn't the aircraft owner's aviation insurance policy protect me?

As stated above it may. Most policies extend protection under the liability coverages (bodily injury and property damage) to permissive users, and to others in the aircraft, or to entities responsible for the aircraft use. Such extensions generally do not apply to damages to the aircraft itself but only to bodily injury and other property damage.

Protection, however, is not generally extended to persons or business entities in the "aviation" business. Therefore, professional pilots, certified flight instructors (CFIs), FBOs, aircraft mechanics, manufacturers, and the likes would not be protected under most owners' individual aircraft insurance policies.

How can I know if I am protected under the aircraft owner's insurance policy?

You can't know for sure unless you read and understand the owner's policy. Some policyholders may not be sure about who is and who is not protected in their own policy. Some have confused being an approved pilot with being included for liability insurance protection. Such may not be the case, especially for persons in commercial aviation.

Can I buy my own insurance to apply when I use an aircraft I do not own?

Yes, if you qualify. Coverage is generally available for non-commercial uses:

For individuals - Personal Non-Owned Aircraft Liability Insurance

For Corporations - Corporate Non-Owned Aircraft Liability Insurance

Personal Non-Owned Aircraft Liability Insurance is usually limited to single engine, fixed wing, non-pressurized, piston, land aircraft having a seating capacity not exceeding seven total seats and a maximum engine horsepower rating of 450 hp, with a Standard Airworthiness Certificate. Coverage can also be provided for student pilots. Multiengine and other aircraft not included in the above description would require special consideration by underwriters for Personal Non-Owned Aircraft Liability Insurance and may not be readily available at a comparable cost (see premium indications below).

Corporate Non-Owned Aircraft Liability Insurance policies can be broader in the types aircraft covered provided they are only operated by pilots furnished by the aircraft owner such as chartered aircraft. With chartered aircraft the exposures are mainly contingent liabilities since the charter customer is not directly involved with the operation and maintenance of the aircraft. If the pilot is an employee of the corporation being insured, coverage may still be available, but would be rated in accordance with the pilot's experience and may be limited to certain aircraft types or models.

How much does it cost?

The Personal Non-Owned Aircraft Liability is easy to rate since a couple of companies provide a simplified application process. For those who qualify, the premiums can range from around \$125 for a limit of liability of \$250,000 with passenger bodily injury limited to \$25,000 each passenger to around \$325 for a limit of liability of \$1,000,000 with passenger bodily injury limited to \$100,000 each passenger. The insured's employer (if not in the aviation business) can also be protected for an additional charge of \$50. The above coverage does not apply to damage to the non-owned aircraft itself. For that protection you need the following "Liability Coverage for Damage to Non-Owned Aircraft".

Liability - Limit Annual – Premium (Example)

\$20,000 \$250

\$40,000 \$450

\$100,000 \$975

\$150,000 \$1,425

The premium for "Liability Coverage for Damage to Non-Owned Aircraft" would depend on the liability amount selected. Some representative premiums are shown in the table at right.

Corporate Non-Owned Aircraft Liability is a little more involved because corporate insureds usually require higher limits of liability. Also, the rating depends on whether any employees of the corporation will serve as pilots or if only chartered aircraft will be used (pilots furnished by owner). If employee pilots are

involved, the pilot's experience and type of aircraft to be used must be factored in along with other information such as anticipated hours and geographical areas.

What about Commercial operators (FBOs and maintenance facilities)?

Coverage for commercial operators is more complicated to rate and we can't give general premium indications without making several assumptions. Suffice it to say that most FBOs can purchase insurance for their non-owned aircraft exposures as a part of their overall insurance package.

What about CFIs?

Coverage is available for Certified Flight Instructors and would apply to personal use as well as to giving dual flight instruction in the student's own aircraft. The coverage would have aircraft description limitations and liability limits similar to the Personal coverage above. Premiums range from around \$225 to \$875 for limits shown above.

For personal uses, the CFI can add his/her employer as an insured, if not in the aviation business, for an additional \$50. Additional coverage can be purchased for the CFI to cover claims arising out of professional obligations for instruction given within the 12 calendar months prior to the date of a covered occurrence. This additional feature costs an additional \$75.

"Liability Coverage for Damage to Non-Owned Aircraft" (the so-called "non-owned hull") premiums for CFIs would be the same as for Personal Non-Owned Aircraft Liability coverage discussed under "How much does it cost?" above.

What if I own an aircraft, have insurance for it, but occasionally use someone else's aircraft?

Most aircraft insurance policies have provisions that could apply to the named insured's use of a non-owned aircraft. The coverage is usually set forth in a section called "Use of Other Aircraft." Under it, liability coverage is extended to apply when the named insured is operating another aircraft. It should be noted that this provision usually applies ONLY if the named insured is one individual (may include spouse) and not if the named insured is a corporation or more than just one individual (such as co-owner named insureds). Approved non-owned aircraft may be limited to aircraft of the same type as the insured aircraft. This protection would apply as excess over any other valid and collectible insurance available to the named insured (e.g., coverage may be available under the owners insurance).

It should also be noted that the "Use of Other Aircraft" provision usually does not extend to cover damage to the aircraft being operated. Further, coverage would not apply to any aircraft that the named insured owns, in whole or in part, or that is rented or leased for more than a short period, seven to 30 days.

Corporate named insureds can usually have the insurance on their owned aircraft endorsed to include the corporate use of non-owned aircraft, although this feature is not always part of a corporate aircraft policy. An endorsement can be added to include property damage liability resulting from damage to the non-owned aircraft.

Most aircraft insurance policies have a provision for extending liability coverage to apply to a temporary substitute aircraft. This coverage applies when the insured aircraft is down and out of service because of breakdown, repair, servicing, loss or destruction and another aircraft is used as a substitute.

What is "Non-Owned Hull" insurance?

It is a confusing term that could be misleading. It has been occasionally misunderstood as being physical damage ("Hull") coverage on a non-owned aircraft. It is not. Actually it is provided as an exception to a typical property damage liability exclusion. The exclusion eliminates protection under Property Damage Liability insurance for damage to property belonging to others but which is damaged while in the care, custody, or control of the insured. The so called "non-owned hull" insurance sets aside this exclusion and makes coverage available for property damage liability arising out of damages to a non-owned aircraft. This coverage is more properly referred to as "Liability Coverage for Damage to Non-Owned Aircraft." Since the phrase "non-owned hull" is not as wordy, it is often used when discussing this coverage, even by insurance professionals.

Why is this distinction important?

Let's illustrate one reason by an example. Suppose Barney Fife owns a Pitts Special, an aerobatic aircraft. Barney's aircraft insurance underwriters approve only Barney as pilot -- a "Named Pilot Only" pilot clause, since this is a high performance, special kind of aircraft. Now suppose that Barney's friend, Andy Taylor, is a highly qualified aerobatic pilot with tons of time in a Pitts Special, having owned a few himself. Andy wants to fly Barney's aircraft. Barney is happy to let him but explains that his insurance policy does not allow it. Andy states that he will buy his own non-owned aircraft liability policy to include "non-owned hull" insurance. Barney figures "What the heck? As long as there is insurance on my aircraft I guess it will be OK."

BUZZ-Z-Z! Wrong answer!! Andy's "Liability Coverage for Damage to Non-Owned Aircraft" (a.k.a. "Non-Owned Hull") would only apply in cases where he was negligent. If Andy messed up a landing and caused damage to the aircraft, Barney would look to Andy for reimbursement of the costs of the damage. Andy would rely on his "Liability Coverage for Damage to Non-Owned Aircraft" for protection.

On the other hand, suppose the loss resulted from causes other than Andy's negligence. For example, a main wheel fell off the aircraft on final approach to landing because of faulty maintenance and the aircraft was damaged on landing. Andy wasn't negligent so his "Liability Coverage for Damage to Non-Owned Aircraft" insurance wouldn't respond. There is no liability claim against Andy because he wasn't negligent. In fact, if Andy is injured he may have a claim against Barney. If Barney submits either claim (Andy's injuries or damage to the aircraft) to his own insurance company they would deny the claims because Andy was not an approved pilot. The result is -- NO COVERAGE.

Even if Andy was named as an additional approved pilot under Barney's policy, Andy could still have a problem for damage he causes to Barney's aircraft. In most cases Andy would be protected as an insured under the liability if his occupation were other than in commercial aviation, like say, a sheriff. He would have no such protection under Barney's physical damage coverage. In fact, Barney's insurance company could go after Andy to recover the amount they paid Barney, if Andy was negligent and caused the loss. (Barney's insurance company would be exercising its "right of subrogation" against Andy.) To avoid this aircraft damage exposure for Andy, Barney's company would need to waive its right of subrogation against Andy, or Andy would need his own "Liability Coverage for Damage to Non-Owned Aircraft."

There are other ways for a person to get protection when using someone else's aircraft. For example, a professional freelance pilot might be specifically added to the owner's aircraft liability policy as an additional insured. He may also get the owner's insurance company to waive rights of recovery against him for damage he causes to the owner's aircraft ("waiver of subrogation").



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