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## Promises, Promises

Aircraft owners buy insurance for two reasons: a) protect their personal assets from aviation liabilities; and b) repair (or replace) their aircraft when things go wrong. Unfortunately, few owners actually read the text of their full policies to ensure they have the coverage they think they do.

### **What is covered, and what is excluded?**

Aviation policies are not like automotive policies. If you have auto coverage, you're pretty much covered in any vehicle you drive, and your vehicle is covered no matter which driver is behind the wheel. Drunk driving in your buddy's Ferrari? No worries, you're covered. In aviation, there are often more exclusions than coverage, and unless the owner understands those exclusions, a flight could be made with zero coverage.

Fundamentally, coverage is provided for covered pilots only. There are two basic types of aviation policies here: a) named pilots, and b) open pilot warranty. In the case of a named pilot policy, only the named pilot(s) are covered. All others are automatically excluded, meaning no coverage if anyone other than those named are flying the aircraft. Most policies have a reverse-exclusion for any CFI who is providing flight instruction to a named pilot, but not for a CFI giving flight instruction to an unnamed pilot. In other words, if you're going to let a CFI borrow your aircraft so he can instruct other students, there will likely be no coverage. Most of these same policies do not automatically provide coverage for ferry flights or post-maintenance test flights, so if you may need to call your broker and have the those pilots named on the policy before the flight.

With an open pilot warranty, the carrier establishes parameters for ratings and experience of the pilots. For example, it might read: "*any private pilot or better having 750 hours total time and 50 hours in the make and model*". Sounds simple enough, but watch out for the fine print. "Model" means the exact same model, meaning 10,000 hours in a Cirrus SR22 but only 40 hours in an SR20 would not qualify the pilot for this SR20 policy, and therefore there would be no coverage. Most policies also state: "*provided each pilot a valid pilot's certificate including a*

*current and valid medical certificate...*” A medical certificate has a clear expiration date, but when does a pilot certificate become invalid? If you guessed never, you’d be wrong in the context of insurance. Our pilot certificates become invalid every 24 calendar months if we fail to get a BFR endorsement.

All policies contain exclusions from coverage, which are often overlooked by policy holders.

Examples:

- 1) *“if piloted by a pilot not properly certificated, qualified and rated under the current applicable Federal Air Regulations for the operation involved...”* A non-instrument rated pilot receives an IFR clearance and departs in severe clear. Since the pilot is not qualified to fly IFR, no coverage. How about a flight with a friend who pays for all the fuel? If that expense exceeds that passenger’s “fair share”, could the FAA declare that flight to be a Part 135 Operation? Probably not for a single flight, but if that was a weekly routine, they might. Since the flight wasn’t operated under a 135 certificate, no coverage.
- 2) *“if the Aircraft has not been subjected to appropriate airworthiness inspection(s) as required under current applicable Federal Air Regulations for the operation involved...”* No annual inspection = no coverage. It’s unclear whether failing to comply with an Airworthiness Directive would invalidate coverage under this exclusion, but it’s best not to find out. Too many pilots rely on their shop to handle ADs as they occur. The FARs place this primary responsibility on the aircraft owner.

In the harsh examples above, does “no coverage” mean “definitely no coverage” or “maybe no coverage”? It depends on the state where the policy holder is located (not where the carrier is located). In some states, a breach of a pilot warranty (or the triggering of an exclusion) still requires the carrier to prove some causal connection between the policy violation and the loss. In the case of the “pay for all the fuel = 135 operation” above, the carrier would have a difficult time proving that prop strike on a hard landing was related to the exchange of money.

In a majority of states, the carrier need not prove any connection whatsoever between the breach of warranty (or triggering of exclusion). Either will automatically invalidate all coverage, period. In the case of a California pilot who forgot to remove the gust lock on a C172 and went through the airport fence a mere two days after his BFR expired, the carrier legally denied coverage. In those states that follow this seemingly-harsh denial method, the rationale is that the policy holder and the carrier freely bargained for certain risk at a certain premium, and any increased risk without increased premium would be unfair to the carrier.

No article on aviation insurance would be complete without mentioning the two most common misconceptions that aircraft owners have about insurance:

- 1) *All damage to my aircraft is covered.* Wrong. For coverage to kick in, there has to be a single “occurrence” or “event” that caused the damage. Wear and tear over time is not covered, as insurance companies don’t warranty aircraft parts. So, if your engine seizes in flight and you have to pull CAPS, the cost of replacing the engine is not covered. The chute repack, and other damage caused by the deployment and flat landing, would be.
- 2) *My broker will protect me.* Unlike real estate brokers, in most states an insurance broker does not owe the policy holder any fiduciary duty. This means that a broker has no legal duty to shop for the best coverage at the lowest price. Most do, but others get lazy and don’t really shop the marketplace. A handful of others steer owners into higher commission policies at the owner’s expense. Also, any verbal representations by your broker are not binding on the carrier; the policy language always governs.

All aircraft owners should carefully read the full text of their policies to look for warranties and exclusions that could cause a denial of coverage.

*Scott Williams, Esq. represents buyers and sellers in aircraft transactions, and provides FAA certificate enforcement defense to all pilots. He is a panel attorney for AOPA’s Pilot Protection Services. Scott is a COPA Board member and serves as our Vice President.*