

What Happens if I have an Accident or Claim?

by Christopher J. Turnbull

Fortunately most of us have never had an accident or claim. As a result, when a claim does occur, it leaves us unsure of what to do and how the claims process works.

The goal of this article is to answer these and other claims related questions. We'll try to take you through how a typical policy treats a claim, some things your policy may not cover, what your responsibilities are in reporting a claim, what the insurance company's obligations are, as well as how to navigate through the claims process without pulling your hair out.

Keep in mind; all claims don't necessarily fit the definition of an accident or a covered event. For liability coverages, insurance policies typically use the word "Occurrence" when defining a covered event. A policy defines an occurrence as "an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the Insured". For example, a bad landing which results in injuries, or taxiing into another aircraft can both be considered an occurrence. For physical damage losses, policies state simply that coverage is provided for "physical damage loss" to the aircraft such as lightning strikes, hail damage, theft or vandalism. These and other terms are usually defined in the policy and subject to applicable exclusions and deductibles.

At this point, the good news is you're covered, right? After a loss occurs is not the time to guess. That's why we always recommend you discuss your specific policy as well as the ability of the underwriting company to handle claims with your agent prior to buying a policy. Not all policies or claims departments are the same, but all have the aim of settling covered claims quickly and fairly. Of the eight full-line underwriting companies in the US, five usually process claims in-house. The others contract claims support out to third party companies. This isn't necessarily bad; it's just the way it's done.

So, you've had an accident and people are injured ... now what do you do? The first priority is to take care of yourself and your passengers. Get everyone the medical attention they need. Expenses for immediate first aid are covered in most policies under "Supplementary Payments" or similar wording. Don't make any statements to the media or anyone else during this time of confusion and excitement. You should talk with your insurance company appointed attorney first to be sure your rights are protected. Beyond this, you have other responsibilities that are required in your policy.

Insured's Responsibilities:

In the event of an occurrence or loss, most policies require that you:

1. Promptly notify the insurance company's claim department. This requirement can be facilitated by contacting your insurance agent.
2. Cooperate with the insurance company and upon request, assist them in making settlements and in enforcing any of their rights of recovery or indemnity against any

person or organization who may be liable to you with respect to the insurance afforded in your policy.

3. Do not, except at your own cost, voluntarily make any payment, assume any obligation or incur any expenses other than first aid to others at the time of the accident.
4. Allow the insurance company to view the damage before repair or disposition.
5. Give the company a proof of loss statement within 60 days of the loss.
6. Make your records available to the adjuster proving the amount of the loss, pilot qualifications, etc.
7. Protect the aircraft from any further loss or damage.
8. Do all things necessary to transfer title to any salvage, including your aircraft if it is a total loss to the insurance company.
9. In the event of theft or robbery, you must promptly notify the police.

What should the insurance company be expected to do?

Every policy is different, so you must read your specific policy wording carefully. Your policy will outline the specific details of what's covered, what's excluded, and the definitions of terms used in your policy.

Typically under the physical damage section, in the event of a total physical damage loss to the aircraft, the insurance company will pay you the "Agreed Value" of the aircraft as stated in your policy less any applicable deductible. In some policies, the hull premium becomes fully earned in the event of a total loss. However, some companies will refund the pro-rata unearned physical damage insurance premium for the aircraft if it's a total loss.

In the event of a partial loss, the insurance company's responsibility will not exceed the "cost of repair" to the aircraft, less any applicable deductible, but in no event will they be responsible for any amount that exceeds the amount for which the company would be liable if the aircraft were a total loss (the "stated value").

Your insurance policy typically gives you the right to take your aircraft to any repair facility you choose in order to get a repair estimate. However, if there's a disagreement, the insurance company has the right to get a second opinion. Additionally, the insurance company must be able to view the damage and approve the estimate before repairs are made (NOTE: Make sure the maintenance facility doesn't start repairing the aircraft without approval from the insurance company). Most companies try to pay the claim within 30 days from the time repair invoices are received and agreement is reached on the amount of the loss, as long as you've complied with all of the requirements of the policy.

What if I don't agree with the amount the insurance company is willing to pay?

If an agreement cannot be reached on the amount of loss, both you and the insurance company have the right to settle the dispute through arbitration. In general, either party must notify the other in writing that the dispute will be submitted for arbitration. Each party then selects an appraiser. The appraisers must select a competent and impartial

umpire. The umpire then reviews the appraisals and makes a binding decision regarding the loss.

In the event of theft, the company has the right to return the aircraft or stolen property anytime before the loss is paid. The insurance company can wait a minimum 30 days before making payment for a loss due to theft in order to allow time to recover the aircraft. Once the 30 days has elapsed, you'll be required to sign a Proof of Loss form and your aircraft will be treated as if it were a total loss.

Speaking of theft, many policies exclude theft of personal items such as cameras, computers, currency, jewelry and collectibles. Additionally, they may not cover or have a low limit (\$250) on loss or damage to passenger baggage. In commercial policies, cargo may not be covered unless specifically endorsed in your policy.

Your agent may be able to get the underwriter to provide additional coverage for little or no additional premium if it's available and you request it. These broad or expansion endorsements many times include but are not limited to: runway foaming expenses, search and rescue expenses, damage to non-owned hangars and contents, damage to non-owned aircraft as well as extra expense for substitute aircraft (while yours is being repaired).

What if your accident results in a law suit?

We talked about physical damage to your aircraft, but what happens if bodily injury or property damage occurs to others and they file a law suit against you?

As part of the insurance agreement, you must immediately forward every demand, summons, or other process received to the insurance company if a claim or suit is brought against you with respect to your policy.

In my opinion, one of the most important benefits of liability coverage is the legal defense afforded to you. In most aircraft policies, the cost of your legal defense is in addition to the liability limit specified on your policy. This means the insurance company "has the right and duty to defend you against any suit seeking damages on the account of bodily injury or property damage with respects to items covered in your policy even if any of the allegations in the suit are groundless, false or fraudulent". And if you're found liable, "they must pay all sums which you become legally obligated to pay because of bodily injury or property damage caused by an occurrence and arising out of the ownership, maintenance or use of the aircraft up to the maximum limits identified in your policy".

What are some of the typical problems associated with claims settlements?

One area that can slow down the claims settlement process is not getting the claims adjuster the information or paperwork they need to complete the process such as repair invoices or proof of loss information. Another issue is not reporting a claim in a timely manner after the loss occurs. It is difficult for the adjuster to investigate a claim that may

have occurred at some earlier date. Therefore, we recommend you immediately notify your agent of any potential claim. Your agent can advise the insurance company that an occurrence took place that may or may not result in a claim.

For example, you accidentally dent the side of your aircraft. It appears to be cosmetic, will probably cost less than the deductible and therefore no notice was given to the insurance company. Later, during a phase inspection, it's determined there's actually damage to the pressure bulkhead. Failure to report this claim in a timely manner could potentially result in non-payment of the claim. Claims adjusters are really there to help you and want to get the claim settled as quickly and fairly as possible. An insurance company's reputation is greatly affected by their ability to handle claims quickly and fairly. They need your help and cooperation.

Another problem area is understanding what's covered and what's not covered in your policy. Again, all policies are not the same so read yours carefully. However, let's use engine damage as an often misunderstood example:

Foreign Object Damage (FOD) (damage caused by object(s) that are not part of the engine or its accessories) whether it results from ingestion or otherwise, is considered "wear and tear" unless the damage is the result of a single incident of sufficient severity that it requires immediate repairs in compliance with the requirements of the engine manufacturer. Additionally, note that if other damage or wear and tear not related to the occurrence is discovered during the teardown, it may not be covered under the policy. Most policies are going to cover ONLY the resulting damage.

Another example is engine damage caused by heat which results from the operation, attempted operation or shutdown of the engine. Often times this is referred to as a "hot start" on a turbine engine. This is specifically excluded in your policy.

Damage caused by breakdown, failure or malfunction of any engine component, accessory or part is considered to be a "mechanical breakdown" and is not covered under the policy .

In these examples, the insurance company's position is that your aircraft insurance policy is not designed to be an aircraft manufacturer's warranty. In these situations you would have to deal with the manufacturer or maintenance facility involved.

How will a claim affect my insurance renewal?

OK, so you've had a claim. How is it going to affect your record and premium? After lengthy conversations with several underwriters from different companies, they consistently reported that claims are looked at on a "case by case" basis. As a result, just having a claim on your record isn't the end of the world and may not affect your premium at all. It really depends on a number of factors. For example, was it controllable? Did you forget to put the landing gear down because you didn't use your checklist or did the nose gear collapse as a result of an unforeseeable mechanical problem? Did the aircraft

run out of fuel because you pushed the flight beyond the aircraft's fuel limits, or did the engine stop because of unforeseen contaminated fuel from an FBO?

FAA violations are generally regarded in a similar manner. For example, an unintentional, minor altitude violation would be looked at differently than an intentional or gross violation of an FAR that resulted in an accident or long-term suspension of your license.

Other factors that may affect your insurance include the number and severity of claims. If you have claims every year that continue to exceed the premium you're paying, chances are the underwriter is either not going to renew your policy or may have to increase your rates and/or deductibles in order to contain your losses. Other underwriting companies may not have an interest in providing coverage if your policy was cancelled or not renewed because of a bad claims history.

There are too many such examples and "what if" scenarios to be covered in one article. Underwriters do in fact understand that accidents occur and that's why you purchase insurance. The bottom line; when an underwriter looks at your claims history, they look at the specific details including whether it was controllable, the number and severity of claims you have, and whether you're taking the necessary steps to prevent future claims.

Let's not forget to take all the safety measures possible to avoid an accident!

Safety attitude, training, checklists, not rushing ... unfortunately, I can tell you as a former Director of Safety, trained accident investigator as well as an Airline Transport Pilot, the headline "Pilot Error Was The Cause Of ... Or Contributed To" the accident is unfortunately true in many cases. "We" pilots can be our own worst enemy when we don't follow that golden rule "Safety First"!

Part of that safety attitude includes the understanding that "it can happen to me". We frequently speak with clients that remind us that "they've never had a claim" and don't like buying insurance. This always gives me the opportunity to tell them about one of my clients that had been flying for 20 years without an accident. Unfortunately, 2 days after his new policy went into effect, he had an accident in his new airplane. At that point he was delighted he had insurance and extremely grateful for the claims response he received.

Keep in mind, there are many types of occurrences or claims scenarios and every policy is different. As a result, I encourage you to read your policy carefully and discuss any questions you may have with your agent. Paying more for a policy doesn't necessarily mean you have a better policy; conversely, trying to cut corners and save a few dollars may cost you in the long run if you have a claim. Q