

How to Avoid Buying Trouble When You Rent a Car

You're on a business trip that requires a rental car. You've endured the flight, made it out of the airport, ridden the bus, and reached the rental-car counter. The clerk asks if you want to buy any of the four different coverages offered. It will cost your firm as much as \$40 per day if you say "Yes" to everything. You need the car for a full week, and \$280 seems like a lot of money on top of the rental fee. You say "No," and the clerk places the contract on the counter, instructing you to "Initial here...and here...and here...and here...." You know your firm is well-run; you figure the firm has all the necessary coverage in place; you know the coverage is overpriced; so you initial box after box, page after page. You take the keys and drive away, secure in the knowledge that you made the right decision.

But unlike every other time you've rented a car on a business trip, this time, you have an accident. A car runs a stop sign and pulls out onto the highway doing 20 miles per hour. You jam on the brakes, but the collision is unavoidable. You're OK, but the rental car definitely is not. You know that dealing with the accident will be an inconvenience, but you are certain that your firm or your credit card will insure the loss. And the other guy seems to be at fault. What could go wrong?

The answer, unfortunately, is a \$14,800 bill from the rental-car company, but only \$7,800 in insurance coverage. It turns out that under the rental-car agreement, you are responsible for "diminution of value." In this case, the car was valued at \$26,500 before the accident. It was sold at auction for \$11,700, resulting in a \$14,800 loss. Your insurance will only cover \$7,800, which includes the total amount for the cost to repair the vehicle, a portion of the loss of income to the rental-car company, and the cost of the appraisal. Since you signed the agreement, the \$7,800 uninsured gap is your responsibility, and you have to hope your firm—which has no formal policy on this issue—will back you up.¹

To help your firm avoid surprises and make the right choices in its corporate policies for renting cars, this article looks at car rental, including:

1. rental-car company options;
2. other sources of coverage;
3. coverage for the gaps; and
4. steps to protect your firm.

Rental-Car Company Options

Most rental-car agreements give you the choice of buying or rejecting various coverages. The following are the four most common options:

1. collision damage waiver;
2. supplemental liability protection;
3. personal accidental insurance; and
4. personal effects coverage.

Collision Damage Waiver

Purchasing the collision damage waiver (CDW) shifts all financial responsibility to the rental-car company in the event that the vehicle is damaged.

If the renter does not buy the CDW, the responsibility is on the renter for damage even if the renter is not at fault. The financial responsibility is not limited to the cost of the vehicle, but also includes loss of rental income and diminution of value.

▲ **Loss of Rental Income:** If the damage to the rental vehicle means that it must be withdrawn from service while being repaired, the rental-car company will derive no income from that vehicle for that period of time. Many rental-car agreements require that the renter be responsible for that loss of income.

▲ **Diminution of Value:** A vehicle that has been in an accident, even after it has been repaired, generally loses some resale value. Many rental-car agreements hold the renter responsible for that loss of resale value. If the damages are substantial, the rental-car company may decide to sell the damaged vehicle at auction. The renter will be responsible for the difference between that sale and the value of the vehicle before it was damaged—which may amount to thousands of dollars.

And rental-car agreements tend to have a catchall clause or two that hold the renter accountable for other costs, such as claims administrative fees, storage or impound fees, towing fees, and any other costs the rental-car company may incur in the process of recovering the vehicle and establishing the amount of the damage.

The cost of the CDW tends to be in the range of \$10 to \$25 per day. This is clearly overpriced. If you do the math, that adds up to an annualized figure ranging from \$3,650 to \$9,125 for physical damage coverage. But that extra cost may still be preferable to the potential costs of not buying the CDW.

It should also be noted that the CDW does not cover every instance of damage. Certain actions on the part of the renter may invalidate coverage, such as:

- ▲ letting someone other than the renter or other authorized driver operate the car;
- ▲ being under the influence of alcohol or drugs at the time of the accident;
- ▲ using the vehicle in a reckless or wanton manner;
- ▲ driving the vehicle off-road; or
- ▲ transporting hazardous materials.

Most of the restrictions are reasonable—activities that your firm would likely not permit in any event. It is important, nonetheless, to be aware of them. It would be disheartening to buy the CDW, then be on the hook for a large sum because the driver was

not authorized and/or violated one or more of these conditions.

Supplemental Liability Protection

Supplemental liability protection will provide the renter with third-party liability coverage in the event of an at-fault accident. One typical limit of liability is a \$1 million combined single limit for bodily injury and property damage. The cost for this option is generally \$10 to \$20 per day.

If the renter declines this option, there may be some coverage available from the rental-car company, but not much. Most rental-car companies will provide only the minimum limits required by the states in which the vehicles are registered and/or are being driven.

One typical state requirement for bodily injury is \$20,000 per person, \$40,000 per accident. If a renter is involved in an accident in a state with that requirement and the accident causes severe bodily injuries to one or more people, the lower limits will likely be insufficient to pay the damages.

An additional complication is that not every rental-car company carries even the minimum coverage in every state. For example, one company's brochure clearly states that with regard to liability insurance, the rental-car company "is not required to provide such minimum protection in all states."

Personal Accident Insurance

Many rental-car companies offer coverage for injuries to the renter and to passengers. There is coverage for medical expenses up to a certain fixed limit, such as \$2,500 per person. In addition, there is often a fixed limit for the death of the person renting the vehicle, such \$100,000, with an additional amount equal to 10 percent for the death of a passenger. This coverage generally costs less than \$10 per day. If you decline this coverage, there is no coverage from the rental-car company for injuries either to you or to your passengers.

Personal Effects Coverage

Rental-car companies offer personal effects coverage, usually for less than \$5 per day. Coverage applies to the renter's personal effects while in the vehicle and while in a hotel room or other building while on a trip using the vehicle. If you decline this option, again, there is no coverage from the rental-car company for your loss.

Making the Right Choices

What to do can be confusing. The easiest thing to do, of course, would be to buy all of the optional coverages, but at \$40 or more per day, that seems foolish. Most travelers—and certainly most business travelers—have access to other insurance that may partially or fully overlap what is offered. The problem is that there are some gaps, and those can become very expensive.

Other Sources of Coverage

Some level of coverage for the four options is available from other sources.

Collision Damage Waiver

The collision damage waiver is actually a misnomer, as it covers far more than just collision damage. It also includes theft, so-called "Acts of God" (such as earthquake, lightning, and similar perils), and other causes of loss to the vehicle—all often called "physical damage."

There are at least three other potential sources of physical damage coverage:

Personal Auto Policy: Physical damage coverage on the typical personal auto policy is fairly broad, applying in excess of any other collectible insurance for any other vehicle in the custody of or being operated by the insured. It applies not only to the individual named insured, but also to his/her spouse and other family members living in the same household.

But coverage applies only if the individual insured has purchased physical damage on his/her own vehicle. Keep in mind that some people drop physical damage coverage when their vehicles are beyond a certain age.

Business Auto Policy: Virtually every firm purchases some business auto coverage. Even if the firm owns no vehicles, the firm will purchase liability coverage for hired and nonowned autos, which would include rental cars. For "a few dollars more," coverage can be extended to include physical damage. With some insurers, coverage can also be structured to act as primary insurance by treating any auto hired by an employee to conduct business on behalf of the firm as an "owned auto."

If your firm requires a lot of travel that entails renting vehicles to conduct the firm's business, this is probably a reasonable option. Of course, the amount of those "few dollars more" will vary, based in part on how often your firm rents vehicles and on the terms and conditions of the rental agreements.

Credit Card Benefits: From time to time, credit card companies will include some automatic coverage for rental cars as part of their benefits to cardholders. But coverage tends to be in excess of any other coverage available to pay the claim, and it does not generally cover such exposures as loss of rental income or diminution in value.

As well, there have been instances of credit card companies eliminating this and other benefits with little warning. Notification of the cessation of coverage may be part of a larger notice of changes to the credit card terms and conditions. Thus, it would be all too easy to miss the notice that this particular benefit was no longer provided.

At least one premium credit card company currently offers primary physical damage coverage for a flat fee per rental. The fee is lower than the average cost of buying a collision damage waiver from a rental-car company. However, this is available only to high-end customers, which may not include everyone at your firm who may rent a car from time to time.

The Gaps: Assuming there is physical damage coverage for a rental car under a personal auto policy and/or the firm's business auto policy, there

is still a shortfall, a gap between the coverage and the financial responsibility of the renter.

First, coverage for the damage is limited to the “actual cash value” of the damaged vehicle or the cost to repair it, but some rental agreements make you responsible for the vehicle’s replacement cost. Second, both personal and business auto policies include only a modest amount for a rental-car company’s loss of income—typically up to \$20 per day, to a maximum of \$600—if the individual is legally responsible for such expenses. This is clearly well below the amount a rental-car company generally charges in rental fees. Any shortfall will come out of the renter’s own pocket.

As for coverage under credit cards, it is unlikely that it would cover diminution in value, loss of rental income, or any of the other extras for which the renter could be responsible. Firms considering this option should investigate the particulars of the applicable credit card agreement thoroughly.

Note: Physical damage coverage provided by the personal and business auto policies may vary from one state to the next.

Supplemental Liability Protection

There are at least two sources of liability protection for anyone who rents a car for business:

Personal Auto Policy: The liability coverage under a personal auto policy is also fairly broad, extending to any vehicle driven by the individual named insured, his/her spouse, and/or other family members living in the same household. This coverage is excess over any other collectible insurance—such as the rental-car company’s minimum coverage. And in those instances where the rental-car company provides no coverage, the personal auto policy will act as primary.

Business Auto Policy: As already noted, virtually every firm purchases some coverage for hired autos—in other words, rental cars. This coverage is most often purchased only for liability and only as excess, over and above any other coverage available to the particular accident, including both

the rental-car company’s policy and the employee’s personal auto policy.

If the renter/employee does not have a personal auto policy, this coverage will kick in above the minimum coverage provided by the rental-car company. And in those instances where there is no personal auto policy and no coverage from the rental-car company, the business auto policy will act as primary. The firm also has the option of making the hired and nonowned auto liability act as primary regardless of other coverages available.

Note: As with physical damage, the liability coverage provided by the personal and business auto policies may vary from one state to the next.

Personal Accident Insurance

There are at least four potential sources of coverage for injury to the renter and to passengers in the vehicle.

Workers Compensation: Assuming the renter uses the rental car strictly for business, any injuries to the renter will be covered by the firm’s workers compensation coverage. This coverage, mandatory in virtually all states, is primary. As for injuries to passengers, if they are also in the vehicle as part of their jobs, they, too, will be covered by workers compensation.

Health Insurance: If the renter keeps the rental car a few extra days for strictly personal use, with the firm’s permission, the individual’s health insurance will provide coverage for any medical costs. If the renter’s spouse and/or children have accompanied the renter on the business trip, any injuries they sustain will also be covered by health insurance.

Personal and Business Auto Policies: If the accident is determined to be the fault of another party—for example, a vehicle that has run a stop sign and broadsided the rental car—the injured party or parties can sue the other driver. This is true in most states even if the injured parties are covered by workers compensation, but the workers compensation insurer does have the right to be reimbursed out of the proceeds of such a suit for the amounts it has paid.

Business Travel Accident: Some firms purchase business travel accident insurance, which is virtually identical to the coverage offered by rental-car companies—except that it may have higher limits and be more cost-effective.

Personal Effects Coverage

And finally, there are at least two potential sources of coverage for personal effects.

Homeowners Policy: The basic homeowners policy provides some coverage for business property away from the premises. For other than electronic apparatus, the coverage limit is \$500; for electronic apparatus and accessories, \$1,500.

The electronic apparatus must be equipped to be operated by power from a motor vehicle's electrical system while still capable of being operated by other power sources. This coverage is clearly intended for cell phones, personal digital assistants (PDAs), and similar equipment.

Note: There are many variations in homeowners policies. Some will provide broader coverage.

Business Personal Property Policy: The basic coverage form for business personal property includes up to \$2,500 for personal effects. Coverage can be extended to include property off premises. Unfortunately, the coverage does not apply to property in or on a vehicle. However, most insurers offer enhanced coverage forms, and many of them provide broader coverage that would include both personal effects and business personal property in transit.

Note: The terms and conditions of business personal property policies vary from state to state. As noted, the basic commercial business property form does not cover loss to property in vehicles. Coverage for such losses under enhanced coverage forms varies from one insurer to another.

If your firm has large values of business personal property away from your insured premises on a regular basis, you should discuss your coverage with your insurance broker to determine if your

firm's coverage is adequate or what changes need to be made to provide protection.

Coverage for the Gaps

The biggest gap in the coverage provided by personal and business auto policies for rental cars is the financial responsibility the renter has for damage to the vehicle—particularly for any diminution of value. The same type of coverage gap used to be an issue for those who lease their vehicles. In 2001, the mainstream insurance industry caught up to reality with the release of Insurance Services Office, Inc. (ISO) form CA 20 71 10 01, "Auto Loan/Lease Gap Coverage." This form provides coverage for many of the gaps between the physical damage coverage you can buy to cover any auto and the additional exposures that are part of most leasing agreements.

What is needed for rental cars is a similar "leap forward" by insurers that will pick up the cost of all those additional exposures under rental agreements. We would suggest the best way to accomplish this would be with some type of "Auto Rental Gap Coverage" that covers those costs on a similar basis.

Unfortunately, our survey of several leading insurers determined that none of them have any near-term plans for providing such coverage.

Steps to Protect Your Firm

There are certain steps that you can take to protect your firm and yourself in the bewildering world of rental-car coverage and coverage gaps. Most importantly, you should decide how to handle each of the four options in advance, rather than leave it up to the discretion of a business traveler in a hurry to get the car and get on the road. The following are our recommendations.

Collision Damage Waiver

Unless and until the insurance industry catches up to the physical damage coverage gaps, firms with employees who rent cars for business from time to time must devise a strategy that limits their risk to a comfortable level. That may well be different for each firm, as some are risk-averse, while others are

risk takers. In determining the level of risk your firm should accept, remember this simple principle of risk management: ***Never risk a lot for a little.***

The following are our suggestions for “Rules of the Rental Road.”

- ▲ If your firm rarely rents cars, always buy the CDW.
- ▲ If your firm rents cars on a regular basis, determine which rental-car company or companies the firm’s members and employees most often use. Contact the top two or three rental-car companies, and discuss establishing a more formal relationship with one of them. This should include modification or elimination of some of the more onerous conditions found in standard rental agreements. Some of those modifications may include:
 - ◆ shifting responsibility back to the rental-car company for damages above a certain dollar limit;
 - ◆ lowering the deductible in the event of an accident;
 - ◆ adding automatic permission for colleagues and/or spouses to drive the vehicle;
 - ◆ having the rental-car company’s coverage be primary; and/or
 - ◆ revising any other contract terms that pose a problem for your firm in particular.
- ▲ To be sure you’ve covered all the bases, you should consult with your attorney about the contract revisions—before, during, and after your negotiations. Be certain that the wording does what you want it to do and does not create any unintended loopholes.
- ▲ Once you’ve settled on one company, notify all of your firm’s members and staff of that agreement. Make sure they understand that they are to use that particular company and rent cars under the corporate agreement whenever possible.

- ▲ Also notify all of the firm’s members and staff that if they are unable to use that rental-car company for any reason—for example, no cars are available or there is no rental-car office at a particular destination—they may rent from another company, but must purchase the CDW.

Supplemental Liability Protection

On the liability front, the personal auto policy and/or the business auto policy fill the gap created by the typical rental-car agreement, either acting in excess of the minimum coverage provided by the rental-car company or, in those states where there is no coverage, providing first-dollar coverage. But in some states, if you’re in an accident or just stopped by the police for any reason, you must be able to present evidence of insurance or face sometimes-stiff penalties.

Rather than trying to keep track of 50 state laws plus the District of Columbia, your firm should require all employees who may rent a vehicle on company business to carry proof of coverage with them at all times. A simple auto ID card showing bodily injury and property damage limits of liability will establish that the renter does have the necessary coverage. That could be a personal auto ID card or the firm’s auto ID card.

Personal Accident Insurance

Our recommendation is not to buy this coverage. As long as your firm’s employees are traveling on business, you have already provided this coverage with your workers compensation policy. For some firms, this is supplemented by a business travel accident policy.

And for use after the business trip is over, if the employee takes some personal time at the travel destination, there will be coverage under the firm’s health insurance policy, assuming your firm provides health insurance. If the individual is not covered by health insurance, he/she might want to consider buying coverage personally, but not at the firm’s expense.

Personal Effects Coverage

Again, our recommendation is not to buy this coverage. There should be adequate coverage between the renter's homeowners policy and an enhanced business coverage form for the firm.

Notifying Employees

Firms that establish a relationship and sign a contract with a specific rental-car company should provide this information in writing to everyone authorized to rent a car. This will facilitate their always renting from the right company in the name of the firm. The written notification should include:

- ▲ name of your firm;
- ▲ name of your preferred rental company;
- ▲ contract number (if there is a contract number);
- ▲ instructions regarding purchasing—or not purchasing—the CDW; and
- ▲ instructions regarding what to do if the individual is unable to rent from the preferred rental-car company.

Firms that do not rent enough vehicles to negotiate a corporate agreement still need a policy that will address what coverages to purchase or decline.

To request a sample template that will help you develop "Rules of the Rental Road" for your firm, please send an e-mail to info@greyling.com. Please put "Rental-Car Template" in the subject line of your e-mail.

1. Van Wyhe, Phyllis, CPCU, CIC, "Rental-car contracts raise coverage stakes," *American Agent & Broker* (December 1, 2008): p. 32.

