

Are you covered for acts of terrorism?

Terrorism is constantly in the headlines. Bombings. Mass shootings. Trucks driven through crowds of people. And, of course, airplanes flown into buildings.

The recent news from Las Vegas seized the spotlight from the year's other disasters—Hurricanes Harvey, Irma and Maria, and the Equifax data breach. At least until the next disaster strikes.

To insurance geeks, these disasters raise insurance coverage questions. Here's a depressing one to ponder. If a terror attack destroys my house, my business, or even my city, will I have insurance coverage to help me recover?

Let's start with homeowners. Most homeowner policies do not specifically exclude coverage for terrorism. The closest they come is an exclusion for war, including undeclared war, civil war, insurrection, rebellion, or revolution. The acts of terrorism that we commonly hear about do not seem to fall within this definition, although the words "insurrection" and "revolution" may give some cause for concern.

For business owners, the answer is different. Since the World Trade Center attacks, commercial insurance policies routinely exclude coverage for terrorism. If an insured wants coverage for terrorism—or is required by its lease to have such coverage—then it needs to elect to purchase terrorism coverage. Either way, the Terrorism Risk Insurance Act (TRIA), which in 2015 was re-enacted as the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA), requires an insured to complete a form entitled Policyholder Disclosure Notice of Terrorism Insurance Coverage and either accept or reject coverage for losses arising out of "acts of terrorism."

Making an informed decision to accept or reject this coverage requires knowing what qualifies as an "act of terrorism." The definition is actually quite narrow. The act must be certified by the Secretary of the Treasury, in concurrence with the Attorney General and the Secretary of Homeland Security, to be an act dangerous to human life, property, or infrastructure and to have resulted in insured damage in excess of an escalating figure, now set at \$140 million.

There has not been a single event certified by the Secretary of State as an "act of terrorism" for purposes of the TRIA since its enactment. This includes the 2013 Boston bombing, even though President Obama referred to it as an act of terrorism during a speech he gave soon afterward. So, a certifiable "act of terrorism" is rare, but if one occurs it is likely to be serious.

One other thing to consider. Virtually all commercial policies contain an exclusion for bodily injury or property damage caused by a nuclear event, however caused. This means a nuclear terrorism attack will likely not be covered, even if an insured has terrorism insurance.

It's a scary world.