

Issues plaguing the surety-bond industry

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Written by Dennis B. Funa



Atty. Dennis B. Funa

INSURANCE FORUM

There are two (2) main issues, involving the general public, hounding the surety bond industry. First is the proliferation of fake bonds. Second is the presence of delinquent bonding companies.

With respect to fake bonds, it is usually government offices that fall victim to this nefarious activity. A number of administrative circulars have been issued by the Insurance Commission to counter this practice. At present, the principal regulation is IMC No. 1-77, dated March 1, 1977, which provides for the rules and regulations governing the issuance of bonds in the Philippines. The circular provides for the following measures: a) To set in place a system of verification, bond forms must be issued in duplicate and they must be consecutively and serially pre-numbered (with serial numbers); b) a bond registry book must be maintained which may be inspected by the public and by the Insurance Commission. Every bond issued by an insurance company shall be entered and recorded in numerical and chronological order. Other data are required to be indicated; c) issuance of signed blank bond forms are prohibited; and d) nine (9) liability registers corresponding to the general classification of bonds shall be maintained;

Another precautionary measure which government offices are required to take was provided for by CL dated February 21, 1973, implementing Memorandum Circular No. 622 of the Office of the President of the Philippines. This provides that government agencies dealing with insurance companies must furnish the Insurance Commission with reports of their transactions within three (3) days from their consummation indicating a number of information. Conversely, surety companies were required to submit monthly reports of bonds issued in favor of the government in CL No. 2015-04, dated January 22, 2015.

Having been victimized by fake bonds so often, the Supreme Court, through its Administrator, issued a Memorandum dated September 10, 1993, for which the Insurance Commission issued a counter-part CL No. 8-2000 to regulate the issuance of judicial bonds. Under this circular, surety companies issuing judicial bonds shall confirm every first ten (10) days of the following month, the bonds it had issued to a particular court copy furnished the Supreme Court and the Insurance Commission. The surety company is sanctioned for failing to submit the list of judicial bonds it has issued for a particular month. Under the Memorandum dated September 10, 1993, the

Clerk of Court is tasked to determine the authenticity of every judicial bond and to submit to the Court Administrator a quarterly report.

The second problem plaguing the surety bond industry is presence of delinquent bonding companies. Under Administrative Order No. 96, dated June 4, 1964 (*Amendment to Authority Granted to Insurance and Surety Companies to Become Sureties Upon Official Recognizances, Stipulations, Bonds, and Undertakings*), “the moment a surety company becomes indebted to any government instrumentality or political subdivision thereof, or to any government owned or controlled corporation in the total amount of P50,000.00 accruing from the issuance of bonds, the same having been due and demandable, the insurance company must voluntarily desist from writing or issuing all kinds of bonds until the outstanding liabilities in government bonds shall have been fully paid or settled.”

Under CL No. 7-2000, dated June 5, 2000, the settlement of customs bond liabilities may be made a requirement for the renewal of the Certificate of Authority of non-life insurance companies. However, in Department of Justice Opinion No. 287, dated October 21, 1954, it was opined that a head of government agency may not unilaterally refuse to accept surety bonds issued by a surety company which has a pending obligation with the said government office. The power to deal with delinquent insurers and bonding companies is a prerogative of the Insurance Commission and not of the unpaid government agencies.

Dennis B. Funa (dennisfuna@yahoo.com) is the current Insurance Commissioner. Atty. Funa was appointed by President Rodrigo R. Duterte as the new Insurance Commissioner in December 2016.