

# IC seeks repeal of NLRC resolution on surety bonds

By **MARY GRACE PADIN**

The Insurance Commission is urging the National Labor Relations Commission (NLRC) to reconsider its en banc resolution requiring insurance companies to pay surety bonds, notwithstanding if the bonds were deemed fake or not issued by them.

Insurance commissioner Dennis Funa said the regulator has already submitted a letter to NLRC chairman Gerardo Nograles seeking for the repeal of the resolution on the ground that fake bonds produce no effect.

This means the surety company named in the fake bond should not be held liable, Funa said.

"Fake bonds should not become a source of any obligation and surety companies should not be held liable for payment as solidary obligor," he said.

The NLRC En Banc issued Resolution 5, series of 2013, requiring the execution of a final judgment in labor cases decided by the NLRC despite the refusal of a bonding company to pay the same on the ground that the bond is spurious or fake.

Under the resolution, bonding companies shall be liable to pay their obligations under a fake bond unless enjoined by a higher court.

However, Funa pointed out that the execution of a surety bond may involve assets of surety companies, and to require them to settle fake bonds "is prejudicial to its financial

condition."

"While we note the constitutional mandate on the protection and promotion of the rights of workers, the same should not encroach on the overriding consideration of the due process," Funa said.

He said surety companies should be given the right to appeal the validity of a bond before execution can proceed.

"Simply put, the proof that the surety bond posted is fake must first be proven by the surety company before proceeding with the execution," the commissioner said.

Funa added that the NLRC resolution is also susceptible to abuse by unlicensed individuals and does not deter the problem on the proliferation of fake bonds.

"The NLRC resolution, to our mind, would only abet falsification because it opens the floodgates to more bonds to be issued by unauthorized persons to the prejudice of surety companies who should have the right to assail it before execution," he said.

To address the problem of fake bonds, Funa recommended that surety companies must be afforded with a remedy within the NLRC to address the issue of the validity of a surety bond.

Furthermore, the IC is proposing for the establishment of a verification system with surety companies.

"The Commission is willing to coordinate with the NLRC to address the issue on proliferation of fake bonds," Funa said.