



## **CALL ALERT for December 22, 2011—New Bills (HB 1013 and SB 1196) Could Wipe Out Common Area Warranties**

Legislation has been recently filed which would prohibit implied warranties of fitness and merchantability from applying to streets, roads, sidewalks, drainage areas, utilities, or any other improvements that are not located on or under the lot on which a new home is constructed. The bills are HB 1013 (Rep. Artilles) and SB 1196 (Sen. Bennett). In short, the bills will result in homeowners being stuck with shoddy common areas for which they have no recourse.

The legislation is a reaction to the Fifth District Court of Appeal's decision in *Lakeview Reserve Homeowners v. Maronda Homes*, 48 So. 3d 902 (Fla. 5th DCA 2010), which found that a homeowners' association had a claim for breach of common law implied warranties of fitness and merchantability against a builder/developer for defects in the roadways, drainage systems, retention ponds and underground pipes.

The Maronda Homes case was appealed to the Florida Supreme Court and the oral argument was made earlier this month. CALL filed an amicus brief (also referred to as a "friend of the court" brief) in support of the homeowners' association's case against the builder/developer.

HB 1013/SB 1196 is a bad deal for homeowners for a number of reasons. Please read the blog by Becker & Poliakoff certified construction attorney Sanjay Kurian discussing the problems with the legislation:

<http://www.floridaconstructionlawauthority.com/2011/12/articles/legislation/legislative-proposal-could-wipe-out-common-area-warranties/>

Please contact Rep. Artilles and Sen. Bennett and let them know that you do not support HB 1013 and SB 1196. Their contact info is as follows:

Rep. Artilles: (305) 252-4300, [frank.artilles@myfloridahouse.gov](mailto:frank.artilles@myfloridahouse.gov)

Sen. Bennett: (941) 727-6352, [bennett.mike.web@flsenate.gov](mailto:bennett.mike.web@flsenate.gov)

Very truly yours,

Yeline Goin, Executive Director for CALL

## Community Association Leadership Lobby (CALL)

Please visit our "CALL" Website at [www.callbp.com](http://www.callbp.com) to view the full text of the bills "CALL" is tracking.