



CALL ALERT!



CALL Alert for April 26, 2012 – Governor Signs HB 1013

Governor Rick Scott has signed HB 1013 into law, eliminating implied warranties in common areas such as roadways, underground pipes, and utilities in residential communities. Common law warranties mean that the common areas are fit for their intended purpose, regardless of any intent of the seller to create such a warranty.

This new law will shift costs to homeowners who will be responsible for fixing shoddy construction of common areas. HB 1013 will be effective on July 1, 2012 and applies to all cases accruing before, pending on, or filed after that date.

The new law provides that no common law implied warranties will exist for "off site improvements" including roads, driveways, sidewalks, drainage area, utilities, or any other improvement not located on or under the lot on which a new home is constructed. The new law prohibits all causes of action in law or equity based upon the doctrine of implied warranty of fitness and merchantability or habitability for offsite improvements including those that may be pending. This legislation applies to all common law implied warranties for fitness, merchantability or habitability regardless of form of ownership including homeowners' associations, condominiums, co-ops, timeshares and mobile home parks, except that it exempts statutory warranties under Chapters 718 and 719.

Construction defects in the common areas can expose individual homeowners to significant liability, as most planned communities have mandatory association membership and an obligation to fix the defects and incur repair costs. Associations with common area construction defects will now have no effective recourse other than to assess its members to pay for repairing defects caused by shoddy construction.

Thank you for sending all of the e-mails and calling the Governor's office to express your opposition to HB 1013. The Legislature and the Governor should now remedy this terrible piece of legislation by passing statutory implied warranties for common areas, just like it did for condominiums in 1976.

Sincerely,

Yeline Goin, Executive Director
Community Association Leadership Lobby (CALL)