

House Bill 492 (AS PASSED HOUSE AND SENATE)

By: Representatives Neal of the 1st, Scott of the 2nd, Hill of the 180th, Stephens of the 164th,
and Hudson of the 124th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 5 of Chapter 3 of Title 44 of the Official Code of Georgia
2 Annotated, relating to general provisions regarding time-share projects and programs, so as
3 to provide definitions; to provide that private residence clubs and private residence club
4 developments are not time-share estates, time-share programs, time-share projects, or
5 time-share uses; to provide for the application of certain restrictive covenants; to provide for
6 exceptions to certain ordinances and regulations; to provide for related matters; to provide
7 an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Part 1 of Article 5 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated,
11 relating to general provisions regarding time-share projects and programs, is amended by
12 adding a new Code section to read as follows:

13 "44-3-162.1.

14 (a) As used in this Code section, the term:

15 (1) 'Private residence club' means an improvement located on real property, including,
16 but not limited to, a single-family residence, the title to which is held by a maximum of
17 eight individuals as tenants in common in fee simple or by a limited liability company
18 containing not greater than eight members, and the use of such improvement or residence
19 includes, without limitation, exclusive occupancy for certain time periods which are
20 determined among the titleholders or limited liability company members by project
21 instrument, including, but not limited to, a declaration of restrictive covenants, a contract,
22 or otherwise. A private residence club may or may not be located in a private residence
23 club development.

24 (2) 'Private residence club development' means a development of at least two private
25 residence clubs in which the titleholders or members of the limited liability company, as
26 respects to each private residence club, contractually agree by project instrument,

27 contract, or otherwise to permit occupancy for certain time periods to the titleholders or
28 members of the limited liability company as exist with respect to any or all of the private
29 residence clubs in the private residence club development.

30 (b) Neither a private residence club nor a private residence club development shall be
31 considered a time-share estate, time-share program, time-share project, or time-share use
32 under this article, and this article shall not be applicable to private residence clubs or
33 private residence club developments; provided, however, that, notwithstanding the
34 foregoing, if there exists a restrictive covenant on real estate that restricts or prohibits
35 time-share estates, time-share programs, time-share projects, or time-share uses, such
36 restrictive covenants shall equally restrict or prohibit a private residence club and a private
37 residence club development unless such restrictive covenant expressly states that it does
38 not apply to private residence clubs and private residence club developments. No zoning,
39 subdivision, or building code or other real estate use ordinance or regulation shall prohibit
40 a private residence club form of ownership or impose any requirement upon a private
41 residence club which it does not impose upon a physically identical improvement or
42 development under a different form of ownership. No subdivision law, ordinance, or
43 regulation shall apply to any division of an improvement, including a single-family
44 residence, into a private residence club or private residence club development."

45 **SECTION 2.**

46 This Act shall become effective upon its approval by the Governor or upon its becoming law
47 without such approval.

48 **SECTION 3.**

49 All laws and parts of laws in conflict with this Act are repealed.