

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1977 of the Regular Session

1 State of Arkansas As Engrossed: H2/25/05 H3/9/05 H3/29/05 H4/4/05

2 85th General Assembly

A Bill

3 Regular Session, 2005

SENATE BILL 447

4

5 By: Senator T. Smith

6 By: Representatives Mathis, Saunders

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For An Act To Be Entitled

10 AN ACT TO EXTEND IMMUNITY TO PROPERTY OWNERS WHO
11 MAKE PROPERTY AVAILABLE FOR MUNICIPAL WATER
12 SUPPLY PURPOSES; AND FOR OTHER PURPOSES.

13

14

Subtitle

15

AN ACT TO EXTEND IMMUNITY TO PROPERTY
OWNERS WHO MAKE PROPERTY AVAILABLE FOR
MUNICIPAL WATER SUPPLY PURPOSES.

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code Title 18, Chapter 11 is amended to add an
23 additional subchapter to read as follows:

24 18-11-601. Purpose.

25 The purpose of this subchapter is to encourage owners of land to make
26 land and water areas available to municipal governments for municipal water
27 supply purposes by limiting the liability of landowners toward persons
28 entering on the land and water areas.

29

30 18-11-602. Definitions.

31 As used in this subchapter:

32 (1) "Land" means real property, roads, water, watercourses,
33 private ways, and buildings, structures, and machinery or equipment when
34 attached to the real property;

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(2) "Municipal water supply purpose" includes, but is not



1 limited to, any of the following, separately or in any combination:

2 (A) Construction or maintenance of a water intake
3 structure;

4 (B) Maintenance of a water intake source;

5 (C) Research concerning a water intake source or
6 structure; and

7 (D) Other activity associated with a water intake source
8 or structure; and

9 (3) "Owner" means the possessor of a fee interest or a tenant,
10 lessee, occupant, or person in control of the land.

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12 18-11-603. Construction.

13 Nothing in this subchapter shall be construed to:

14 (1) Create a duty of care or a basis for liability for injury to
15 persons or property; or

16 (2) Relieve any person using the land of another for municipal
17 water supply purposes from any obligation that he or she may have in the
18 absence of this subchapter to exercise care in his or her use of the land and
19 in his or her activities on the land or relieve any person from the legal
20 consequences of failure to employ such care.

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22 18-11-604. Duty of care.

23 Except as specifically provided in § 18-11-607, an owner owes no duty
24 of care to keep the land safe for entry or use by others for municipal water
25 supply purposes or to give any warning of a dangerous condition, use,
26 structure, or activity on the land to persons entering for municipal water
27 supply purposes.

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29 18-11-605. Owner's immunity from liability.

30 Except as specifically provided in § 18-11-607, an owner who, either
31 directly or indirectly, invites or permits any person to use his or her land
32 for municipal water supply purposes does not:

33 (1) Extend any assurance that the land is safe for any purpose;

34 (2) Confer upon the person the legal status of an invitee or
35 licensee to whom a duty of care is owed;

36 (3) Assume responsibility for or incur liability for any injury

1 to person or property caused by an act or omission of the person; or
2 (4) Assume responsibility for or incur liability for injury to
3 the person or property caused by any natural or artificial condition,
4 structure, or personal property on the land.

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6 18-11-606. Land leased to municipality.

7 Unless otherwise agreed to in writing, the provisions of §§ 18-11-604
8 and 18-11-605 shall be deemed the sole source of the duties and liability of
9 an owner who leased or otherwise provided land to a municipality for
10 municipal water supply purposes.

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12 18-11-607. Exceptions to owner's immunity.

13 Nothing in this subchapter limits in any way liability that otherwise
14 exists for malicious, but not mere negligent, failure to guard or warn
15 against an ultra-hazardous condition, structure, personal property, use, or
16 activity actually known to the owner to be dangerous.

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18 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
19 General Assembly of the State of Arkansas that there is nothing currently in
20 the law that grants immunity from liability to persons who make property
21 available for municipal water supply purposes; that this act provides sound
22 public policy for the State of Arkansas; and that this act is immediately
23 necessary because the state should encourage property owners to make property
24 available for municipal water supply purposes. Therefore, an emergency is
25 declared to exist and this act being immediately necessary for the
26 preservation of the public peace, health, and safety shall become effective
27 on:

28 (1) The date of its approval by the Governor;

29 (2) If the bill is neither approved nor vetoed by the Governor,
30 the expiration of the period of time during which the Governor may veto the
31 bill; or

32 (3) If the bill is vetoed by the Governor and the veto is
33 overridden, the date the last house overrides the veto.

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35 /s/ T. Smith
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APPROVED: 04/11/2005