

Hall of the House of Representatives
85th General Assembly - Regular Session, 2005
Amendment Form

Subtitle of Senate Bill No. 447

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

Amendment No. 4 to Senate Bill No. 447.

Amend Senate Bill No. 447 as engrossed, H3/29/05 (version: 03-29-2005 16:11):

Delete SECTIONS 1 through 7 entirely and substitute the following:

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

18-11-601. Purpose.

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

18-11-602. Definitions.

As used in this subchapter:

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

(2) "Municipal water supply purpose" includes, but is not limited to, any of the following, separately or in any combination:

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

(B) Maintenance of a water intake source;

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

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

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

18-11-603. Construction.

Nothing in this subchapter shall be construed to:

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

(2) Relieve any person using the land of another for municipal water supply purposes from any obligation that he or she may have in the



absence of this subchapter to exercise care in his or her use of the land and in his or her activities on the land or relieve any person from the legal consequences of failure to employ such care.

18-11-604. Duty of care.

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

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

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

- (1) Extend any assurance that the land is safe for any purpose;
- (2) Confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed;
- (3) Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of the person; or
- (4) Assume responsibility for or incur liability for injury to the person or property caused by any natural or artificial condition, structure, or personal property on the land.

18-11-606. Land leased to municipality.

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

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

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

AND

Page 4, line 24, delete "SECTION 8" and substitute "SECTION 2"

The Amendment was read _____
By: Representative Sample
KLL/YTC - 03-31-2005 08:06
KLL342

Chief Clerk