## 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.

1	State of Arkansas
2	85th General Assembly A Bill
3	Regular Session, 2005 SENATE BILL 447
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5	By: Senator T. Smith
6	By: Representatives Mathis, Saunders
7	
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9	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
16	OWNERS WHO MAKE PROPERTY AVAILABLE FOR
17	MUNICIPAL WATER SUPPLY PURPOSES.
18	
19	
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	<u>18-11-601. Purpose.</u>
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;
35	(2) "Municipal water supply purpose" includes, but is not
36	limited to, any of the following, separately or in any combination:

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1	(A) Construction or maintenance of a water intake
2	structure;
3	(B) Maintenance of a water intake source;
4	(C) Research concerning a water intake source or
5	structure; and
6	(D) Other activity associated with a water intake source
7	or structure; and
8	(3) "Owner" means the possessor of a fee interest or a tenant,
9	lessee, occupant, or person in control of the land.
10	
11	18-11-603. Construction.
12	Nothing in this subchapter shall be construed to:
13	(1) Create a duty of care or a basis for liability for injury to
14	persons or property; or
15	(2) Relieve any person using the land of another for municipal
16	water supply purposes from any obligation that he or she may have in the
17	absence of this subchapter to exercise care in his or her use of the land and
18	in his or her activities on the land or relieve any person from the legal
19	consequences of failure to employ such care.
20	
21	<u>18-11-604. Duty of care.</u>
22	Except as specifically provided in § 18-11-607, an owner owes no duty
23	of care to keep the land safe for entry or use by others for municipal water
24	supply purposes or to give any warning of a dangerous condition, use,
25	structure, or activity on the land to persons entering for municipal water
26	supply purposes.
27	
28	18-11-605. Owner's immunity from liability.
29	Except as specifically provided in § 18-11-607, an owner who, either
30	directly or indirectly, invites or permits any person to use his or her land
31	for municipal water supply purposes does not:
32	(1) Extend any assurance that the land is safe for any purpose;
33	(2) Confer upon the person the legal status of an invitee or
34	licensee to whom a duty of care is owed;
35	(3) Assume responsibility for or incur liability for any injury
36	to person or property caused by an act or omission of the person; or

1	(4) Assume responsibility for or incur liability for injury to
2	the person or property caused by any natural or artificial condition,
3	structure, or personal property on the land.
4	
5	18-11-606. Land leased to municipality.
6	Unless otherwise agreed to in writing, the provisions of §§ 18-11-604
7	and 18-11-605 shall be deemed the sole source of the duties and liability of
8	an owner who leased or otherwise provided land to a municipality for
9	municipal water supply purposes.
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11	18-11-607. Exceptions to owner's immunity.
12	Nothing in this subchapter limits in any way liability that otherwise
13	exists for malicious, but not mere negligent, failure to guard or warn
14	against an ultra-hazardous condition, structure, personal property, use, or
15	activity actually known to the owner to be dangerous.
16	
17	SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
18	General Assembly of the State of Arkansas that there is nothing currently in
19	the law that grants immunity from liability to persons who make property
20	available for municipal water supply purposes; that this act provides sound
21	public policy for the State of Arkansas; and that this act is immediately
22	necessary because the state should encourage property owners to make property
23	available for municipal water supply purposes. Therefore, an emergency is
24	declared to exist and this act being immediately necessary for the
25	preservation of the public peace, health, and safety shall become effective
26	<u>on:</u>
27	(1) The date of its approval by the Governor;
28	(2) If the bill is neither approved nor vetoed by the Governor,
29	the expiration of the period of time during which the Governor may veto the
30	bill; or
31	(3) If the bill is vetoed by the Governor and the veto is
32	overridden, the date the last house overrides the veto.
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34	/s/ T. Smith
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