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FARMERS' LEGAL  
ACTION GROUP,  
INCORPORATED

# *Leasing Farm Land in Minnesota*

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# *What is a farmland lease?*

- A lease is an agreement between a landowner and a tenant to rent farmland.
- **Note:** This presentation does not cover rental of a residence or home on farmland. There are additional laws that apply to that situation.

# *Basic lease terms: Lessor and Lessee*

- The Lessor is the person who owns the land.
- The Lessee or tenant is the person who rents the land from the Lessor/landowner.

# *Does a lease have to be in writing?*

- Real estate (land) leases for more than one year *must* be in writing.
- If the rental term for land is less than one year, a verbal lease is as valid as a written lease and is legally enforceable, as long as there is agreement on the basic terms.
- A written agreement can help avoid confusion, especially if a dispute arises in a relationship.

# *Does a lease have to be in writing?* (continued)

- If a dispute arises about a verbal lease, how will it be resolved?
- If a landowner or tenant wants to enforce a verbal agreement, they will likely have to go to court.
- In deciding whether a verbal agreement was reached, courts look at evidence to determine the intent of the parties. With a verbal lease, it can be one person's word against the other person's word – difficult to prove.

# *Does a lease have to be in writing?* (continued)

- A “year” means 12 months. If a lease covers a crop year and the crop year is less than 12 months, a written lease is not required. But if the crop year is more than 12 months, the lease must be in writing.
- If a lease is required to be in writing but it is not, it generally is not enforceable, with few exceptions.

# *What is required to create a legally enforceable written lease?*

- If a lease is required to be in writing, a formal contract is not always required. As long as the writing contains the basic terms, a letter or a memorandum can be enforceable as a formal lease agreement.

# *What is required to create a legally enforceable written lease?* (continued)

- These basic terms are required:
  - 1) names of the landowner and the tenant;
  - 2) a description that identifies the land to be rented;
  - 3) a description of what is being paid for the land; and
  - 4) usually, signatures of both the landowner and the tenant.



# *What is required to create a legally enforceable written lease?* (continued)

- Once there is a written lease, the written document is what governs the relationship between the landowner and the tenant.
- Any changes to the lease should also be in writing. Verbal changes to the terms will usually not be enforced.

# *Negotiating a lease*

- Landowners may have their own forms, but tenants do not have to accept the standard language in these agreements. Any of the terms are negotiable. Some landowners may be more willing than others to negotiate.
- Negotiating price: many factors go into what price is paid, including the amount of land you are renting, the amount that is tillable, the quality of the land, whether irrigation is available.

# *Payments/Price*

- Rent for a farm lease can be paid in any number of ways. The two most common are cash leases and crop share leases.
- Cash lease: the tenant pays a set amount of money in exchange for the use of the land. Payment may be made in one payment or several payments.
- Crop share lease: the landowner gets a share of the proceeds of the crop as rent. These can be flexible – for example, based on the price the farmer actually gets for the crop.
- Some farmers do a combination of the two.

# *Types of Leases Determine Length and Ending of Lease*

- Tenancy for years: This is a lease for a fixed period, not necessarily for a number of years. So it could be for 90 days, six months, five years, etc., but not more than 21 years in Minnesota.
- A *tenancy for years* does not automatically renew. It ends on the date specified in the lease. No notice of termination is required.

# *Types of Leases Determine Length and Ending of Lease*

*(continued)*

- Tenancy at will: Lease with no fixed term. Sometimes these are called month-to-month or year-to-year tenancies. If there is no term specified in the agreement, it is a *tenancy at will*.
- A *tenancy at will* continues until it has been ended by proper notice from one of the parties. It can be ended at any time with proper notice.

# *Types of Leases Determine Length and Ending of Lease*

*(continued)*

- Generally, to end a *tenancy at will*, the landowner or the tenant must give three months' notice. But if the tenant is required to make monthly rental payments, ending the lease requires a one-month notice.
- **However**, if the tenant fails to pay rent or neglects the property, the landowner may end the *tenancy at will* lease with 14 days' written notice.
- As with all contracts, courts will look to the intent of the parties in deciding the terms of any lease.

# *Holdover tenancies*

- Sometimes a tenant remains on rented land after the lease has ended. If it is done without the approval of the landowner, it is called “holding over.” There are risks to “holding over.” What are the options if a tenant holds over?
  - If the landowner agrees to the holding over, the parties could create a new lease.
  - A *tenancy at will* might be created, using the terms of the original lease.
  - If the landowner does not agree, the landowner can treat the tenant as a trespasser and evict the tenant. If the landowner decides to treat the tenant as a trespasser, the landowner cannot try to collect rent from the holdover tenant. If the landowner accepts rent from the holdover tenant, the landowner cannot treat the tenant as a trespasser.

# *The tenant owns the crop*

- Crops grown on leased land are the personal property of the tenant. This is true even if the rent to be paid is a share of the crop.
- What happens if the tenant is prevented from harvesting the crop – for example, because of bad weather that prevents harvest before the lease ends or the tenant violates the lease in the middle of the lease term?
  - The lease may be renewed. If the problem is delay in the harvest, speak with the landowner as soon as possible to seek a lease extension.
  - The landowner may allow the tenant to harvest the crop. If so, however, the tenant must pay the market value rent for the use of the property until the crop is harvested.
  - If the landowner does not allow the tenant to harvest the crop, the landowner must pay the tenant the net value of the crop.



# *Obligations of tenant*

- To pay rent. If a tenant fails to pay rent due, the landowner has the right to end the lease after giving the tenant 14 days' written notice.
- If the lease does not specify anything about farming practices, the general rule is that the tenant is free to farm in ways that are “commonly accepted” in the community.

# *Obligations of tenant* (continued)

- A tenant can not commit “waste,” whether or not it is mentioned in the lease. Waste is when the tenant’s activities cause the farm land to be permanently or severely damaged. Examples that might constitute “waste” would be removing valuable topsoil from the property or using chemicals or pesticides on organic land or land in conservation programs.
- Do not dispose of solid waste on your rented land. That includes garbage, sludge, any discarded materials, whether liquid or solid that result from your operation.

## *Obligations of tenant* (continued)

- Minnesota law prohibits burning of tires or plastics. Minnesota law also prohibits the burning or burying of household hazardous waste, appliances, air conditioners, household batteries, used motor oil, and car batteries.
- Tenants are responsible for their actions and the actions of the tenant's guests, family members, and employees.

# *Potential problems to be aware of*

- Make sure you talk with the actual owner of the land. If you are subleasing, you need to make sure the person you are dealing with has the authority (permission) to rent the land.
- Have a clear understanding of what the landowner's expectations are with regard to farming practices, especially regarding the use of pesticides or other chemicals.

# *Potential problems to be aware of* (continued)

- Staying overnight on your land. If the lease does not forbid it, it probably is legal to stay overnight on the land. If a tenant is going to stay overnight on the land, it is advisable to tell the landowner. The landowner may not want to risk the liability for any harm that comes to the tenant. There may also be questions about what is allowed on the land – such as setting up a tent or other structure. It also is a safety concern for the tenant – for example, if a storm is coming, no one nearby will know the tenant is there to warn them to seek shelter.

## *Final words of advice*

- If you want or expect to rent the land from year-to-year, it is best to get it in writing.

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