

Farm Management

Ohio law requires lease in writing



Country Counsel

By ROBERT MOORE

AN estimated 50% of farm leases in Ohio are verbal and not in writing. Verbal leases are fraught with risk due to potential misunderstandings and breaches by the tenant, landlord or both. Leases that are in writing and signed by both the tenant and the landlord significantly reduce the possibilities of conflicts. However, tenants are often reluctant to approach landlords about converting their verbal lease to a written lease for fear of offending the landlord and maybe losing the lease.

Verbal leases are generally not enforceable. This means that even if the tenant and landlord have a verbal agreement regarding a lease, either party can back out of the agreement and the other party can do nothing about it.

Ohio law requires leases to be in writing to help prevent fraud. The thinking here is that if a lease is in writing, there is less chance of fraudulent conduct by the landlord or tenant. Verbal leases can become

Key Points

- Verbal leases are fraught with risk from misunderstandings and breaches.
- Ohio law requires leases to be in writing to prevent fraud.
- Recordkeeping can be helpful, but even a simple written lease is better.

enforceable when the tenant has begun to perform his or her responsibilities of the lease. The logic is that a tenant will not take actions like paying rent, performing tillage or planting a crop unless a lease is in place.

How to transition

The following are two strategies to help transition to written leases when the other party is reluctant to do so.

■ **Blame your lawyer.** If there is any group of people easy to blame, it's lawyers. Use this to your advantage and tell the landlord your lawyer is telling you to get the lease in writing. You can even go one step further and ask your lawyer to write a letter explaining the risks of verbal leases and why it is in the tenant's and landlord's interest to convert to a written lease.

■ **Start simple.** Leases do not need to be lengthy or complicated to be effective.



Some landlords may be reluctant to sign a lease because they don't understand it and are worried they are signing a bad lease. Start with a lease that covers the basics: names of tenant and landlord, description of the property being leased, rent and term of the lease. Additional terms and provisions can be added in future leases as the tenant and landlord become more comfortable with written leases.

Written leases must be signed by the landlord and should be signed by the tenant. Leases for four years or more must be notarized to be valid. Additionally, a lease memorandum should be recorded for long-term leases to protect the tenant in the event the land is sold.

If a landlord or tenant will not agree to a written lease, keeping good records can help lessen the risks of a verbal lease. Financial records, payment history and production practices can help establish a pattern that can be used to show the intent of the parties. While this strategy provides some protection, getting the lease in writing is still preferred.

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