



Weekly Farm Economics: Conservation Addendums for Illinois Farm Leases

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October 8, 2019

farmdoc daily (9): 188

Recommended citation format: Coppess, J. and G. Schnitkey. "Conservation Addendums for Illinois Farm Leases." *farmdoc daily* (9): 188, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, October 8, 2019.

Permalink: <https://farmdocdaily.illinois.edu/2019/10/conservation-addendums-for-illinois-farm-leases.html>

On September 26, 2019, the *farmdoc* project released three conservation addendums for the Illinois farm leases, available in the [Agricultural Law section](#) of *farmdoc*. The addendums provide a model for landowners and farm-tenants to discuss and agree upon specific aspects of production on the leased land. This article provides further information and background.

Background

The *farmdoc* project has long provided articles about farmland leasing, as well as model leases (*farmdoc daily*, [September 12, 2019](#)). Specifically, the Agricultural Law section provides a crop share lease form, a livestock share lease form, a fixed cash rent lease form and a pasture lease form. These fillable pdf's offer basic models of lease documents for use by farmers, landowners and attorneys to use in discussions, negotiations and the leasing contracts. These documents provide for basic information to constitute a contract between landowner and tenant, including description of the land, the amount of rent and the respective right and duties of the parties. Most importantly, users are reminded that any lease is a contract and that it creates and alters legal rights. All landowners and tenants are advised to strongly consider discussing the lease provisions with their respective legal advisors before completing the documents.

Discussion

Increasingly, natural resource and conservation issues—from sustainable production to nutrient loss reduction, soil health and wildlife habitat—are occupying a central place in agriculture; farm tenancy and leasing matters are no exception (Cox, 2010a, 2010b, 2011; Richardson, 2018). Concerns range from the impact on natural resources due to uncertainty in tenancy or misunderstandings between tenants and landlords, as well as the potential impact on the value of the farmland. To help both landowners and farm-tenants work through these issues and clarify duties and responsibilities, the *farmdoc* project has created addendums to existing model farm leases.

Any addendum can be used for any farm lease and they can be used individually or in combination. The addendum is simply that: an addition or revision to the underlying lease agreement and must be agreed

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to by both landowner and tenant. Also, an addendum should be incorporated by reference in the underlying lease and a suggested provision is provided for each addendum. Doing so incorporates the terms agreed-to in the addendum into the lease contract between the landowner and farm-tenant. Importantly, if an addendum is to be used, both the landowner and the farm-tenant needs to understand that the addendums create or alter legal rights and they are both advised to strongly considering any provisions with their respective legal advisors.

(1) Soil Health and Conservation Addendum

The Soil Health and Conservation Addendum is for a landowner who seeks to reach clear understanding with the farm-tenant about practices on the land under lease. The addendum is a fillable pdf and the parties can negotiate the specific provisions to include in the addendum, memorializing the agreement by selecting the specific provisions. The provisions and fillable pdf are designed to be additive: each selected provision will be incorporated in the lease agreement.

Included among the provisions that can be selected are those for tillage practices and cover crop practices. There are also specific provisions pertaining to other conservation efforts that may be present on the farmland, such as ditches, vegetative buffers, terraces or other erosion control measures. The addendum also includes general options that address soil health and conservation efforts for the farmland. Finally, the addendum provides options for the parties to agree to adjustments in the annual rent based on the provisions for soil health and conservation selected above. All of these are only options and the parties are free to adjust or revise the provisions as they consider best and all are again advised to discuss with legal counsel before completing.

(2) Nutrient Management Addendum

Similarly, the Nutrient Management Addendum is a fillable pdf that provides for selecting basic provisions that can be incorporated into any lease. Among the options are those pertaining to adherence to the Maximum Return to Nitrogen (MRTN) for nutrient application on the land subject to the lease, as well as for requiring specific application practices such as split application. Options also include for soil testing, adoption of nutrient management plans and the application of manure, such as an agreement to avoid application on frozen ground.

This addendum also provides options for the parties to agree to adjustments in the annual rent based on the provisions for soil health and conservation selected above. All of these are only options and the parties are free to adjust or revise the provisions as they consider best and all are again advised to discuss with legal counsel before completing.

(3) Conservation Habitat Addendum

This addendum provides specific options pertaining to wildlife habitat on the farmland that is subject to the underlying lease. This addendum provides for general descriptions of the critical area and options for agreeing to basic maintenance or integrated pest management practices. The addendum also provides space for the parties to agree to any adjustments to the rent due to the conservation habitat on the farmland subject to the lease. Again, these options create or alter legal rights and both the landowner and the farm-tenant are advised to consult with their respective legal counsel before completing the addendum.

Finally, the parties should keep in mind some basic matters for farmland leases. In Illinois, state law requires a four-month notice from the landlord to terminate a farm lease; the requirement applies to all verbal leases and any written lease that does not otherwise specify a different notice requirement or is a year-to-year lease (i.e. does not have a specific term). Unless the existing lease specifies a different date, state law presumes a March 1st end to a farm lease. The notice requirement would thus be November 1st under the law.

Concluding Thoughts

Ultimately, a farm lease is a contract between the landowner and the tenant, the terms of which are subject to discussion, negotiation and agreement between them. Generally, the parties are in a better position if the terms of any agreement between them are memorialized in writing signed by the parties.

The conservation addendums discussed herein provide landowners and farm-tenants various options for clarifying their agreement as to duties and responsibilities with respect to various conservation and natural resource issues.

References

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