Farmland Leasing Law in Illinois: Selected Issues

Prepared by Farm Commons

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NORTHEAST ILLINOIS FarmLink

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USDA
United States Department of Agriculture
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Food:Land:Opportunity
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Readers are advised that this educational resource cannot present the full depth of farmland leasing law and instead focuses on leading statues, regulations, and principles. To understand how the law affects a particular party or parcel of land, this resource is not a substitute for consultation with a qualified attorney.

LEASE BASICS

Statute of Frauds (SOF) and enforcement of contracts involving land

- Real estate leases for up to one year do not need to be written in order to be enforced by Illinois courts, BUT *any lease for a term longer than one year must be in writing and signed by both parties to be enforceable*.[1] An oral lease of farm land for a period exceeding a year is generally treated as a year to year lease, which can be terminated by either party on four months' written notice (see below).[2] Importantly, an oral agreement to execute a lease for a term of up to one year, which will commence in the future, may NOT be enforceable if the lease will end more than one year from the date of the agreement (for example, if the parties verbally agree in November to a one-year farm lease that will begin in March).[3]
    - Note that there are several good reasons to put any lease in writing, ideally with an attorney's assistance[4], even if not required under the statutes of fraud: writing down lease terms helps both parties understand expectations, remember the terms and conditions that they agreed to, and can be invaluable in case either party is incapacitated or the land is sold. (Even if a tenant has a great relationship with their landlord, that may not be true with their successor if the land changes hands for any reason.)
    - Partial performance or actual occupancy may cause an agreement to be enforceable even if it would otherwise fall within the SOF. Other exceptions to the SOF may render a noncompliant oral lease enforceable (e.g., admission in pleadings to existence of contract, ratification in a signed writing after the oral agreement, etc.).[5]

Notice requirements for termination and/or renewal

- Termination and notice requirements vary depending on type of tenancy. Illinois statutes lay out different rules that apply specifically to agricultural leases. (Note that the rules described below apply to leases for farm land; different rules may apply to residential tenancies.)
    - **Tenancy for years or a term**: Notice and termination requirements do not apply to leases for a definite term (i.e., with a specified end date).[6] A lease with a fixed end date simply expires at the end of the term (though the agreement may grant the tenant an option to extend, renew, or renegotiate the lease at that time). The parties are free to enter a separate agreement in order to end the lease early (e.g., the tenant may surrender the lease).
    - **Tenancy at will**: Tenancies for an indefinite term (i.e., with no fixed end date) were historically deemed tenancies at will,

which could be terminated by either party at any time without notice. Today, IL law stipulates that either party may terminate a tenancy for "any term less than one year, other than a tenancy from week to week," by giving 30 days' *written* notice to quit unless they have an agreement to the contrary (in the case of a week to week tenancy, only 7 days' notice is required).[7]

- **Periodic tenancy**: Like a tenancy at will, a periodic tenancy continues indefinitely: it automatically renews at the end of each rental period unless the parties follow proper notice and termination procedures as defined by statute. (An example is a year to year tenancy, which is a periodic tenancy with a one-year rental period.) *BUT, unlike a tenancy at will, it may only terminate at the end of a rental period*. However, the parties may separately agree to end the lease early (e.g., the tenant can surrender the lease). Tenancies for an indefinite term typically will be construed as periodic tenancies (rather than tenancies at will) if the tenant has already moved in and paid rent. The common law rule regarding the necessary elements of a valid lease, as stated by IL courts, suggests that the parties must specify the duration of the lease.[8] But IL courts will generally imply a periodic tenancy based on the period for which rent is reserved—or, if there is no reservation of rent, the interval of rental payments—if the lease term is indefinite (including when an oral lease is unenforceable under the statute of frauds).[9] So, if the rent is determined or paid on an annual basis, as in a typical farm lease, it would be treated as a year to year lease. This means that *statutory notice requirements generally apply in order to terminate a verbal farm lease*. Specifically:
  - *Written notice to terminate a year to year tenancy of farmland must be given no less than four months prior to the end of the lease term*.[10] (Note that non-agricultural year to year tenancies require only 60 days' notice to terminate.[11]) The customary farm lease year in Illinois commences on March 1. So, for verbal year to year farm tenancies beginning on that date, notice to terminate the farm lease must be given no later than October 31.[12]
  - *Notice requirements are reciprocal*, so the landlord also has a right to notice of termination of a year to year tenancy.[13] If the tenant fails to give proper notice, she remains liable for rent regardless of whether or not she continues to occupy the premises.[14]

    - These notice requirements may be waived in the lease, which may stipulate a longer or shorter notice period, or none at all.[15] (Again, different rules may apply to residential leases.)
    - NOTE: IL courts have created an exception to the notice requirement if the tenant has informed the landlord that he will not be reletting the property.[16]
- **Holdover tenancies**: When a tenant remains in possession after the expiration or termination of a lease, he or she is said to "hold over." If the landlord acquiesces, such as by accepting rent, an implied year to year tenancy may form. Then, the holdover tenant is entitled to the same notice of termination as any other year to year tenant.[17] Be aware, however, that if the landlord gives notice of termination of a holdover tenancy AND makes a written demand for possession, the tenant is liable for double rent for any period that she willfully holds over after the tenancy is terminated.[18] (Tenants may also be liable for double rent if they provide notice to terminate the lease and then fail to leave the premises on by the stated termination date.[19])
    - NOTE: If a year to year tenancy is implied when a tenant holds over, only the essential terms of the original lease agreement may be incorporated into the new lease; special provisions (e.g., an option to purchase the land) may NOT apply to the new tenancy that is formed.[20]
- **Termination upon death/incapacity of landlord**: Leases do not automatically terminate upon the death of the landowner or sale of the land unless the lease agreement explicitly states otherwise.[21] Moreover, a provision of Illinois law offers a year to year tenant (e.g., the tenancy implied under a verbal lease) some protection when the landlord has merely a life estate in the land and does not own it outright. In that case, the lease continues to the end of the lease year in the event that the owner dies or becomes incapacitated.[22]

Notice requirement hypothetical

- **Example**: *Farmer has been operating on Landowner's land for two years now. They do not have a written lease and never discussed renewal. Originally, Landowner agreed that Farmer could use the land, and both parties assumed the agreement was for a year's time, as is customary in the farming community. At the end of that year, the parties did not explicitly agree to renew the lease, but Landowner accepted Farmer's rent and they proceeded as normal. However, at the end of the second 12 months, Landowner did not accept Farmer's rent and instead said, "I'm renting to someone else." What now? Should Farmer have received a period of notice? How long? If the*

proper period of notice was not provided, may Farmer stay for another year?

- Under IL law, courts will presume that the parties intend to form a periodic tenancy when they do not specify a definite lease duration. Specifically, an agricultural tenancy that has continued for over a year would be deemed a year to year tenancy. So, Landowner is allowed to terminate the lease only by providing *written* notice at least four months prior to the end of the lease year. Unless there is clear evidence that the parties intended to end the lease on a different date, it is generally presumed that agricultural leases in IL run through February, so notice must be given by October 31. If the landlord fails to provide notice until the beginning of the third year, the lease automatically renews for another year. The tenant would have legal recourse if the landlord attempts to kick her off the land during that period. Landowner would have to wait until year four to terminate the lease with Farmer and must follow statutory notice procedures to do so. So, if this Landlord provided adequate notice (i.e., written etc. as required by statute) at the end of year two/beginning of year three, the lease would terminate at the end of year three.

PLANNING FOR CONTINGENCIES & ADDITIONAL LEGAL CONSIDERATIONS

If the agreement is silent, what happens to personal property (e.g., crops, removable fixtures) upon termination?

- **Removable fixtures**: The tenant may remove items that they added to the property which are NOT considered permanent improvements to the property (such as portable buildings, feeders, etc.).
  - → Consider adding a lease provision to specify which improvements will belong to the tenant and which will remain on the property after the lease ends.
- **Crops**: Ownership of crops is generally governed by the common law.[23] Crops are considered personal property of the farm tenant rather than part of the realty unless the parties agree otherwise. Yet, in the absence of an explicit provision in the lease, the tenant's right to harvest and sell crops growing at the time of termination (i.e., "away-going crops") after the tenancy ends depends on how the lease terminates:

- Under the doctrine of emblements, Illinois law grants tenants the right to return after the lease is terminated to harvest a fall seeded crop if the crop was seeded in good faith before the tenant received notice of termination.[24] So, if the lease is for an uncertain term (i.e., both landlord and tenant are not sure of the end date), the tenant traditionally has the right to harvest the growing crop absent an agreement to the contrary.[25] However, if the lease is for a fixed term or terminates due to the tenant's own conduct, they will NOT be able to harvest crops maturing after that time.[26]
  - When this rule applies, the tenant will have a "reasonable time" to harvest the crops. The length of time will depend on different factors (e.g., weather, conditions, opportunity to remove the crop, etc.) and is typically a question for a jury to decide.[27]
- Courts have traditionally applied this rule to annuals (i.e., plants that complete their life cycle in 1 year and are produced by the labor of the tenant, such as wheat, corn, and vegetables).[28] The Illinois Supreme Court rejected applying the rule to perennial crops, such as clover hay and seed, that are not the result the tenant's labor and expenditures before the date that he receives notice of termination in the agricultural year during which it matures.[29]
- → Consider adding a provision in the lease to ensure that the tenant will be able to harvest her remaining crops. Parties should think about and agree on what a "reasonable time" means to them and include it as well so that the question will not be left to a jury to decide.[30]

If the agreement is silent, who has responsibility for repairs and upkeep?

- **Repairs and upkeep**: Under Illinois law, commercial leases have no implied warranty of fitness for intended use.[31] The landlord has no legal obligation to repair under a non-residential lease unless there is an express lease provision to that effect; the tenant is obligated to make repairs to keep the property in working condition at his own expense. If the lease contains a residential component there are specific protections for repairs and conditions, and it is therefore recommended that there be separate leases for the farm land and for any housing, if applicable.
  - → Consider altering this default rule in the lease: Include provisions regarding the landlord's obligations to repair and the level of maintenance required of the tenant. Also, provide for whether and how tenant will be compensated for necessary repairs, whether landlord provides supplies, etc.[32]

If the agreement is silent, who is responsible for improvements (e.g., compensation upon termination for purchases or improvements made)?

- **Ownership of improvements**: Whether a particular improvement that a tenant constructs on the leased property belongs to the tenant (and therefore may be removed by the tenant at the end of the lease) depends on whether that improvement is classified as a "removable fixture" or a "permanent improvement." However, the distinction between permanent improvements and removable fixtures is not always clear. Courts generally view the intent of the parties as controlling.[33] The best evidence of the parties' intent is an express provision in the lease (or another written document signed by the parties).[34]
    - If the improvement is classified as a fixture, Illinois law allows the tenant to remove the fixture, provided: 1) tenant does not owe back rent, 2) tenant placed the fixture on the land himself or herself, and 3) tenant removes the fixture before the expiration of the lease term.[35]
- **Tenant's right to compensation for improvements**: Farm tenants should be very cautious when making or paying for permanent or multi-year improvements to rented farmland. If classified as a permanent improvement (e.g., increased soil fertility, permanent buildings, soil conservation terraces, improvements to existing structures), the landlord may have no obligation to compensate the tenant absent a special provision in the lease or other binding agreement.[36] Without an agreement, they become part of the landlord's interest in the real estate at the expiration of the lease term.
- → In light of these default rules regarding ownership and compensation for improvements, consider adding explicit provisions in a written lease (or lease amendment or other binding agreement) that address:
    - 1) Whether the tenant has a right to make a permanent improvement or remove a fixture;
    - 2) Which additions/features are meant to be removable fixtures and which are intended to be permanent improvements;
    - 3) The condition to which the property will be returned when fixtures are removed; and
    - 4) Any compensation the owner agrees to pay the tenant for permanent improvements and the method for computing this compensation.[37]

Is there an implied duty of good husbandry?

- Illinois courts have recognized an implicit duty to use good husbandry practices.[38] Recently, this duty has been invoked primarily to protect farmers against claims by neighbors relating to water rights and drainage.[39] Though a covenant to practice good

husbandry may be implied in a lease agreement in a dispute between landlord and tenant, that would only require the farmer to follow commonly accepted agricultural practices, which may not rise to the level of care that the landowner desires.

- → Consider clearly defining in the lease what will be considered good farming practices to stave off potential disputes. For example, in the absence of an explicit provision, the tenant's right to remove crop residue might be limited by this duty.[40] Landlords and tenants may also want to discuss whether to include any other conservation measures or agricultural practice requirements (such as organic standards, compliance with farm program requirements and other laws, e.g., local soil loss limits, environmental regulations, etc.).[41]

Other considerations based on IL default rules?

- **Sublease and assignment**: IL appellate courts have held that a tenant generally has the right to assign the lease without the landlord's consent if the lease is silent.[42]

DISAGREEMENT OR BREACH

What are the limitations on filing a suit is small claims court?

- In IL small claims court, there must be *no more than $10,000* at issue.[43]
- NOTE: Litigants cannot use small claims court to secure the return of real property.[44] Following the procedure laid out in the IL Forcible Entry and Detainer Act, described below, is the only means for settling a dispute over possession rights to real property.

Are attorneys prohibited in small claims court?

- *Attorneys are allowed in small claims court*, but many litigants choose to represent themselves.[45]
- Under IL law, corporations might be required to be represented by an attorney in order to sue in small claims court in certain counties (however, they would need not retain an attorney in order to defend a claim against them).[46]

Agricultural liens

- Under Illinois law, a landlord's lien automatically attaches to crops, which permits a landlord to secure payment of rent for land on which the crops are grown.[47]

Remedies for breach	• **Nonpayment of rent**: The IL Forcible Entry and Detainer Act is the only means for settling a dispute over possession rights to real property.[48] When a tenant fails to pay rent, a landlord may:
	  ○ Terminate the lease and sue for possession after providing the tenant a written demand for payment and notice that the landlord will exercise that option unless payment is made within five days of the notice.[49]
	  ○ Sue for recovery of rent.[50]
	  ○ File a distress warrant to seize the tenant's personal property for rent due.[51]
	• **Breach of other lease terms**: The remedy is less clear if the farmer (or landlord) breaches other provisions of the lease.[52] Generally, remedies are limited to those described in the terms of the lease.[53] A farmer may be given the opportunity to cure a material breach (for example, good husbandry provisions) before a lease is terminated, though the landlord may simply elect to terminate the lease.[54] The landlord is entitled to terminate the lease if the tenant defaults on any terms, aside from nonpayment of rent, by providing only 10 days' written notice.[55]

RECORDING

Do leases have to be recorded?	• A memorandum of lease may be recorded, though it is not generally required. BUT *leases that are subject to Illinois' transfer tax (i.e., transferred ground leases for a term of at least 30 years) must be recorded*. • It may be prudent to record long-term leases even if not required. Recording provides constructive notice to potential new owners and could prevent dispute or tension.[56] However, a third party may be found to have constructive notice of the existence of a lease regardless of whether or not there is record notice.[57]
What is the name of the office where leases are recorded (e.g., county recorder's office)?	• **County Recorder of Deeds**: The Illinois Association of County Clerks and Recorders website has links to the recorder of deeds offices in all IL counties.

ILLINOIS RESOURCES

- Illinois Forcible Entry and Detainer Act (735 ILCS 5/9-101 et seq.)

- Illinois Landlord and Tenant Act (765 ILCS 705)
- Donald L. Uchtmann, *Is Your Lease Compatible With Your Division of USDA Farm Program Payments Between Landlord and Tenant?*, Agricultural Law and Taxation Brief 06-01, University of Illinois (May 2006)
- Donald L. Uchtmann, *October 31 is "Notice" Deadline for Many Farm Leases*, Agricultural Law and Taxation Brief 04-11, University of Illinois (Jun. 2006)
- Donald L. Uchtmann, *The Illinois Landlord's Lien: Securing Agricultural Rent Payments After August 21, 2002*, University of Illinois (Sep. 2002)
- Donald L. Uchtmann, *Protecting A Farm Tenant's Right to Compensation for Improvements Made to the Leased Farm in Illinois*, Agricultural Law and Taxation Brief 07-03, University of Illinois (Apr. 2007)
- Donald L. Uchtmann, *Farm Owner's Death: Can Tenant Continue Farming Under the Lease?*, Agricultural Law and Taxation Brief 07-04, University of Illinois (Jun. 2007)
- Donald L. Uchtmann, *Should a Farm Lease be Written and is an Illinois Farm Tenant Protected if the Lease is Oral?*, Agricultural Law and Taxation Brief 07-01, University of Illinois (Oct. 2009)
- Donald L. Uchtmann and A. Bryan Endres, *Illinois Farm Leases: One Variable Cash Rent Option*, Agricultural Law and Taxation Brief 08-03, University of Illinois (Aug. 2008)
- Reiss, Farm Leases for Illinois (Circular 1199), University of Illinois Extension
- Hahn & Ackerman, Legal Aspects of Farm Tenancy in Illinois

GENERAL RESOURCES

- Farmland Access Legal Toolkit, Center for Agriculture & Food Systems, University of Vermont Law School
- National Sustainable Agriculture Coalition, Land Contract Guarantee Program (2014)
- Ed Cox & Matt Russell, *The Landowner's Guide to Sustainable Farm Leasing*, Sustainable Agricultural Land Tenure Initiative, Drake Agricultural Law Center (2016)
- Ed Cox, *Land Contracts for Beginning Farmers*, Sustainable Agricultural Land Tenure Initiative, Drake Agricultural Law Center (2012)
- Kristine A. Tidgren, Tax Implications of a Farmland Lease, Center for Agricultural Law & Taxation, Iowa State University
- Beginning Farmers, Funding Resources for Farmers (Loans/Grants) (comprehensive online list of resources and information on various funding sources for beginning farmers)
- USDA Farm Service Agency, Transition Incentives Program (TIP) Fact Sheet (2010)
- USDA Farm Service Agency, Land Contract Guarantee Program Fact Sheet
- USDA Natural Resources Conservation Service (NRCS), Conservation Stewardship Program Fact Sheet (2014)
- North Central Farm Management Extension Committee, *Fixed and Flexible Cash Rental Arrangements for Your Farm* (2011)
- North Central Farm Management Extension Committee, *Crop Share Rental Arrangements for Your Farm* (2011)

- National Young Farmers Coalition, Finding Farmland Calculator
- Agrarian Trust, Land Access: Strategies (short summaries and stories of innovative land access strategies from across the nation and world)
- Cara Fraver et al., *Farm Service Agency Loans: The Ins and Outs of Growing a Farm with Federal Loans*, National Young Farmers Coalition (2018)
- Land for Good, Farm Legacy Toolkit
- Land for Good, Farm Seekers Toolbox (website with links to several resources relating to land access and leasing, and acquiring land)
- Kathryn Ruhf & Bob Wagner, *Farm Access Methods: A Decision Guide*, Land for Good
- Mike Ghia, *Liability and Insurance in a Farm Lease*, Land for Good (2018)
- Land Stewardship Project, Farm Transitions Toolkit
- Land Stewardship Project, *Farmland Access: Financial Decision-Making Tool*
- Farmers' Legal Action Group (FLAG), *Using Leases to Meet Financial and Stewardship Goals* (2014)
- FLAG, *Farmers' Guide to the Farm Service Agency Microloan Program* (2014)
- FLAG, Ch. 6: Lease Agreements in *Farmers' Guide to Minnesota Lending Law* (2003)
- Farm Answers, Farmland Access Toolbox, Center for Farm Financial Management, USDA and University of Minnesota
- Kristen Loria et al., *Affording Our Land*, Greenhorns (2013)
- Kate Dean, *Farmland Changing Hands: Innovative Land Transfer Strategies*, Washington FarmLink (2011)
- Mykel Taylor, *Ag Land Leasing Basics and Cover Crops*, Agricultural Economics, Kansas State University (2014)
- Unit 9: Land Tenure Options and Strategies in Jan Perez et al. (Eds.), Teaching Direct Marketing and Small Farm Viability: Resources for Instructors, Center for Agroecology & Sustainable Food Systems, University of California, Santa Cruz (2d Ed. 2015)
- University of Vermont Extension, *Guide to Financing the Community Supported Farm* (2012)
- University of Vermont Extension, Land Access and Tenure Toolshed: Alternative Tenure Options
- National Agricultural Law Center, Case Law Index: Agricultural Leases (January 1, 1965 – March 1, 2011)
- California FarmLink, Getting on Solid Ground: An Overview of 15 Ways to Secure Land in *Farmer's Guide to Securing Land* (2008)
- Greenhorns, Resources List (comprehensive list of resources and organizations to assist farmers with land access, financing, etc.)
- Savanna Institute, Agroforestry Land Access (extensive list of resources relating to land access, leasing, etc.)

FOOTNOTES

[1] 740 ILCS 80/2.

[2] 735 ILCS 5/9-206. *See* Farmers and Merchants v. Hulett, 2012 IL App (3d) 120022-U; Rhodes v. Sigler, 27 Ill. App. 3d 1 (3d Dist. 1975).
[3] Donald L. Uchtmann, *Should a Farm Lease be Written and is an Illinois Farm Tenant Protected if the Lease is Oral?*, Agricultural Law and Taxation Brief 07-01, University of Illinois (Oct. 2009). *See, e.g.,* Bumgardner v. Scaggs, 180 Ill. App. 668 (Ill. App. Ct. 1913).
[4] A recent case in Michigan demonstrates the pitfalls of an improperly drafted written lease. *See* Erin Herbold, *"Right-of-First Refusal" in Farm Lease Not Valid*, Center for Agricultural Law and Taxation, Iowa State University (Apr. 29, 2010) (discussing Gerstenberger Farms, Inc. v. Grimes, 2010 Mich. App. LEXIS 726 (Mich. Ct. App., Apr. 22, 2010)).
[5] Penn State Extension, Owning and Leasing Agricultural Real Estate, at 4-5. *See, e.g.,* Howard Millinery Co. v. Royal Cloak Co., 262 Ill. App. 448 (Ill. App. Ct. 1931) (holding that a tenant who fully performed an oral lease by paying the $3000 yearly rental could not in a later year avoid paying rent by asserting that such lease was invalid under statute of frauds).
[6] 735 ILCS 5/9-213. *See* Hoefler v. Erickson, 73 N.E.2d 448 (Ill. App. Ct. 1947).
[7] 735 ILCS 5/9-207.
[8] *See, e.g.,* Weiman v. Butterman, 260 N.E.2d 321, 324 (Ill. App. 1st Dist. 1970) (citing In Bournique v. Williams, 225 Ill.App. 20 (1922), stating that the "only essentials" to create a valid lease are a definite agreement as to the extent and bounds of the property leased; a definite and agreed term; and a definite and agreed price of rental, and time and manner of payment.).
[9] IL Real Property Service § 9.4 (term of tenancy).
[10] 735 ILCS 5/9-206. This provision specifically applies to farmland; only 60 days' notice is required for other types of real estate. Section 9-211 specifies the means by which notice may be given and provides an example of an adequate notice, and IL courts enforce strict compliance with these statutory requirements.
[11] 735 ILCS 5/9-205.
[12] Donald L. Uchtmann, *Should a Farm Lease be Written and is an Illinois Farm Tenant Protected if the Lease is Oral?*, Agricultural Law and Taxation Brief 07-01, University of Illinois (Oct. 2009) (citing Daugherty v. Burns, 331 Ill. App. 3d 562 (2002) and Ames v. Sayler, 267 Ill. App. 3d 672 (1994)).
[13] Hoefler v. Erickson, 73 N.E.2d 448 (Ill. App. Ct. 1947).
[14] Demerath v. Schennum, 59 N.E.2d 348 (Ill. App. Ct. 1945).
[15] *See, e.g.*, Avdich v. Kleinert, 69 Ill.2d 1, 370 N.E.2d 504, 12 Ill. Dec. 700 (1970) ("An option to terminate is enforceable as long as it is exercised according to the terms of the lease").
[16] Miller v. Knight, 401 N.E.2d 314 (Ill. App. Ct. 1980).
[17] Bell v. Groom (1922) 224 Ill. App. 58; Barbee v. Evans (1920) 220 Ill. App. 154.
[18] 735 ILCS 5/9-202.
[19] 735 ILCS 5/9-203.
[20]
[21] *See, e.g.,* Donald L. Uchtmann, *Farm Owner's Death: Can Tenant Continue Farming Under the Lease?*, Agricultural Law and Taxation Brief 07-04, University of Illinois (Jun. 2007).
[22] 735 ILCS 5/9-206.1.
[23]
[24] Donald L. Uchtmann, *Should a Farm Lease be Written and is an Illinois Farm Tenant Protected if the Lease is Oral?*, Agricultural Law and Taxation Brief 07-01, University of Illinois (Oct. 2009) (citing Leigh v. Lynch, 112 Ill. 2d 411 (1986)).
[25] Simpkins v. Rogers (1854) 15 Ill 397; Van Valkenburgh v. Peyton (1845) 7 Ill 44.
[26] *See, e.g.,* Bumgardner v. Scaggs, 180 Ill. App. 668 (1913) ; Jones v. Ritter, 206 Ill. App. 487 (3d Dist. 1917). Note that express provisions in the lease may alter the common rule. *See* Kraushaar v. Matthew, 79 N.E.2d 862 (Ill. App. 3d Dist. 1948) (permitting tenant to return to harvest crop after tenancy terminated as provided for in the lease, even though it was planted after landlord gave notice).
[27] *See* Paul Goeringer, Maryland Risk Management Education Blog, FAQ: Do I Have the Right to Growing Crops When the Lease Terminates? (Jan. 5, 2015).
[28] The American Law Institute's Restatement of Property § 121, Comment f, explains that "annual crops" "connotes not only those crops which must be placed in the ground each year, such as cotton, wheat, and the like, but also

those *crops from which the produce in any single year is principally the result of the attention and care exerted in that same agricultural year*, such as hops and sugarcane, both of which are perennials" (emphasis added).
[29] Leigh v. Lynch, 112 Ill. 2d 411, 420 (1986).
[30] *See* Christie Hayes, Penn State Agricultural Law Resource and Reference Center, Selected Topics in Agricultural Contract Law, 19 (2003).
[31] Eugene J.M. Leone et al., Real Estate Leasing: Illinois, Practical Law Real Estate.
[32] Penn State Extension, Owning and Leasing Agricultural Real Estate, at 6.
[33] Donald L. Uchtmann, *Protecting A Farm Tenant's Right to Compensation for Improvements Made to the Leased Farm in Illinois*, Agricultural Law and Taxation Brief 07-03, University of Illinois (Apr. 2007); Hopwood v. Green, 375 Ill. 167 (1940); Crane Erectors & Riggers, Inc. v. LaSalle Nat. Bank, 466 N.E.2d 397 (Ill. App. Ct. 1984). *See also* 107 ALR5th 311 ("In distinguishing between trade fixtures and (realty) fixtures, courts consider the three-part test employed to determine whether an article or group is a fixture or retains its character as personal property: annexation, adaptation, and intent.") (citing Griffiths v. Office of State Fire Marshall, 301 Ill. App. 3d 658 (2d Dist. 1998)).
[34] Donald L. Uchtmann, *Protecting A Farm Tenant's Right to Compensation for Improvements Made to the Leased Farm in Illinois*, Agricultural Law and Taxation Brief 07-03, University of Illinois (Apr. 2007).
[35] Donald L. Uchtmann, *Protecting A Farm Tenant's Right to Compensation for Improvements Made to the Leased Farm in Illinois*, Agricultural Law and Taxation Brief 07-03, University of Illinois (Apr. 2007) (citing 735 ILCS 5/9-319 and related court decisions).
[36] Donald L. Uchtmann, *Protecting A Farm Tenant's Right to Compensation for Improvements Made to the Leased Farm in Illinois*, Agricultural Law and Taxation Brief 07-03, University of Illinois (Apr. 2007) (citing Gardner v. Watson, 18 Ill. App. 386 (1886)).
[37] Donald L. Uchtmann, *Protecting A Farm Tenant's Right to Compensation for Improvements Made to the Leased Farm in Illinois*, Agricultural Law and Taxation Brief 07-03, University of Illinois (Apr. 2007). An agreement between the landowner and tenant that determines ownership of personal property and improvements is generally valid, at least with respect to these parties. 2 Tiffany Real Prop. § 612 (3d ed.) (citing Hewitt v. General Elec. Co., 164 Ill. 420, 45 N.E. 725).
[38] *E.g.,* Bates v. Hallinan, 77 N.E. 115, 116 (Ill. 1906) (citing Walker v. Tucker, 70 Ill. 527 (1873)).
[39] 4 Illinois Real Property § 30:16 (Natural easements).
[40] Edward Cox, The Landowner's Guide to Sustainable Farm Leasing, 32-33 (2010).
[41] For a basic discussion of how to incorporate conservation and sustainability concerns in a farm lease, please see the blog post by Ed Cox, Addressing Conservation in a Farm Lease, MOIAFarmLaw.com (Jun. 10, 2015). *See also* Ch. 5: Key Considerations for a Sustainable Farm Lease in Ed Cox & Matt Russell, The Landowner's Guide to Sustainable Farm Leasing, Sustainable Agricultural Land Tenure Initiative, Drake Agricultural Law Center (2016); *Lease Supplement for Obtaining Conservation Practices and Controlling Soil Loss*, Iowa State University Extension and Outreach, Ag Decision Maker.
[42] Eugene J.M. Leone et al., Real Estate Leasing: Illinois, Practical Law Real Estate (citing Cole v. Ignatius, 448 N.E. 2d 538, 541 (Ill. App. Ct. 1983)). Moreover, if a lease forbids any sublease or assignment without the landlord's consent, the landlord cannot unreasonably withhold its consent to a sublease regardless of the terms of the lease. Golf Mgmt. Co., v. Evening Tides Waterbeds, Inc., 572 N.E. 2d 1000, 1003 (Ill. App. Ct. 1991).
[43] *See* Illinois Legal Aid Online, Suing Someone for $10,000 or Less and Going to Small Claims Court; IL Attorney General, Small Claims Court. Small claims court is governed by the IL Clerks of Courts Act (705 ILCS 105) and IL Supreme Court Rule 282.
[44] Illinois Legal Aid Online, Suing Someone for $10,000 or Less.
[45] *See* IL Attorney General, Small Claims Court.
[46] Illinois Legal Aid Online, Considerations Before Deciding if You Want to Hire a Lawyer; Robert L. Margolis Navigating Small Claims Court in Cook County, Illinois, Robinson Curley & Clayton, P.C. Under generally applicable law in the state, corporations need not be represented by an attorney. 735 ILCS 5/2-416.
[47] 735 ILCS 5/9-316 (landlord's lien on crops). See D.L. Uchtmann, The Illinois Landlord's Lien: Securing Agricultural Rent Payments after August 21, 2002, for more information.
[48] Eugene J.M. Leone et al., Real Estate Leasing: Illinois, Practical Law Real Estate, 5. *See* 735 ILCS 5/9-101 to 9-321; Fortech, L.L.C. v. R.W. Dunteman Co., 852 N.E. 2d 451, 459 (Ill. App. Ct. 2006)).
[49] 735 ILCS 5/9-209.

[50] 735 ILCS 5/9-201.
[51] 735 ILCS 5/9-301, 9-302.
[52] *See, e.g.*, Lord v. Johnson, 120 Ill. App. 55 (Ill. App. 3d Dist. 1905) (holding that remedies for distress for rent were not available for breach of the covenant of good husbandry). *See generally* 35 ALR.5th 285 (Liability for breach of farming lease or contract).
[53] *E.g.,* Van Valkenburgh v. Peyton, 7 Ill. 44 (1845).
[54] *See* 1 Illinois Real Property § 7:27 (stating that unless the lease specifies automatic termination, failure to perform a condition (as distinct from breach of covenant or conditional limitation) will terminate the lease only upon notice to the lessee) (citing Wechter v Chicago Title & Trust Co. 385 Ill 111, 52 NE2d 157 (1944)).
[55] 735 ILCS 5/9-210.
[56] *See, e.g.* Christie Hayes, Selected Topics in Agricultural Contract Law, Penn State Agricultural Law Resource and Reference Center, 17; Paul Goeringer, Maryland Risk Management Blog, FAQ: Does Selling the Farm Terminate an Existing Lease? (Jun. 18, 2015).
[57] Eugene J.M. Leone et al., Real Estate Leasing: Illinois, Practical Law Real Estate 1.