

EXHIBIT 1

(Wisconsin Agricultural Lease Law Primer)

EL-TOC Joint Motion to Dismiss

PSC Docket No. 05-BS-258

Wisconsin Agricultural Lease Law Primer
Philip E. Harris, University of Wisconsin-Madison/Extension

I. Formation

- A. A lease for more than one year must be in writing and signed by the parties to be enforceable. Wis. Stat. § 704.03. Exception: partial performance by one party.
- B. A verbal lease for one year or less is enforceable in Wisconsin if the terms of the lease can be proven.
- C. If premises are leased for a year or longer primarily for other than private residential purposes, and the lessee holds over after expiration of the lease, the lessor may elect to hold the tenant on a year-to-year basis. The terms and conditions of the year-to-year lease are the same as those of the original lease except that any right of the lessee to renew or extend the lease, or to purchase the premises, or any restriction on the power of the lessor to sell without first offering to sell the premises to the lessee, does not carry over to the year-to-year lease. Wis. Stat. § 704.25(2)(a) and (3).
- D. A lease of agricultural land for more than 15 years is void under the Wisconsin Constitution, Article I, Section 14.

II. Rights and Duties of Lessor (owner) and Lessee (tenant)

- A. Unless otherwise stated in the lease, the lessor and lessee have the following rights and duties
 - 1. Lessee has the right of exclusive possession other than lessor's right to enter to protect the property or to show it to prospective lessees. Wis. Stat. § 704.05(2).
 - 2. Lessee cannot make physical changes to the property without the lessor's consent. Wis. Stat. § 704.05(3).
 - 3. Lessor must repair or replace any plumbing, electrical wiring, machinery, or equipment furnished with the premises and no longer in reasonable working condition. Wis. Stat. § 704.07(2)(a)(5).
 - 4. Lessee must repair damage caused by his or her negligence or improper use. Wis. Stat. § 704.07(3)(a).
- B. The parties can alter these rights and duties in the lease.

III. Termination

- A. A lease for a term certain ends at the end of the term unless otherwise stated in the lease.
- B. Unless otherwise agreed, a year-to-year agricultural lease requires 90 days notice before the end of the term to terminate the lease. Wis. Stat. § 704.19(3).

Resources for lease forms:

<http://aglease101.org/doclib/default.aspx>

<http://learningstore.uwex.edu/Options-for-Pasturing-Animals-P100C14.aspx>