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Advancing Soil Health Through Agricultural Conservation Easements and Referenced Plans

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Agriculture Law Education Initiative



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The Agriculture Law Education Initiative (ALEI) is a partnership of the Francis King Carey School of Law at the University of Maryland, Baltimore (UMB); the College of Agriculture & Natural Resources at the University of Maryland (UMCP); and the School of Agriculture and Natural Sciences at the University of Maryland Eastern Shore (UMES). ALEI is an initiative of the University of Maryland: *MPowering the State*, a strategic alliance between UMB and UMCP created in 2012 to significantly expand research collaboration, business development, and student opportunities at both universities.

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2021 Agricultural and Environmental Law Conference



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Wednesday Nov. 17th PM & Thursday Nov. 18th AM

Attend ONLINE

- \$35 / Students Free
- **Topics include:**
 - Using Legal Education to Increase Equitable Participation in NRCS Conservation Programs
 - Growing Carbon Credits: Should Maryland Farmers Open a Carbon Banking Account?
 - Legislative Strategies for Reaching Ag Sector 2025 Chesapeake Bay Clean-up Goals

To register visit:

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Conservation Practices on Leased Farmland



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- Approximately 40% of farmland both nationwide and in Maryland is leased.
- Conservation practices are less prevalent on leased acres.
- Why?
 - Communication
 - Leasing uncertainty
 - Knowledge deficit

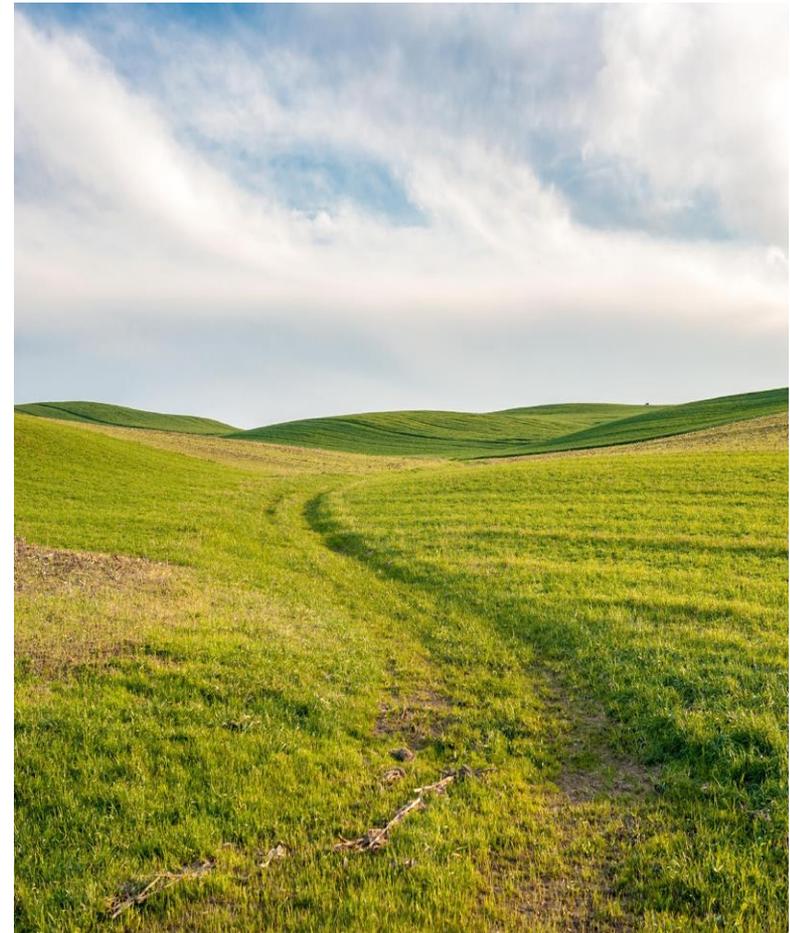


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Leasing as a Tool



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EXTENSION BULLETIN

SEPT. 2018 | EB-434



Agricultural Conservation Leasing Guide

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-Who- the roles of the state and federal players and contact info(UME, NRCS, SCD, NGOs)

-What- leasing and communication strategies for each party to consider

-How- sample lease language to support specific practices

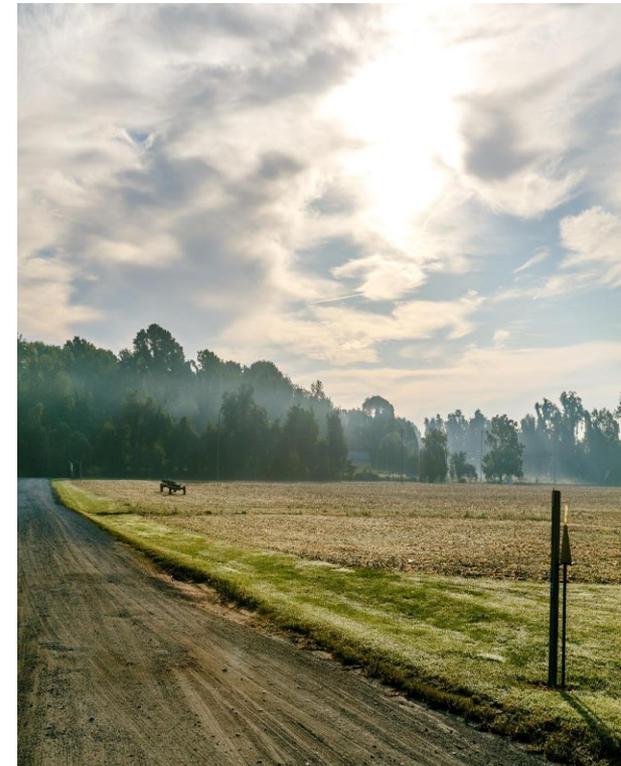
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Structuring a Lease to Support Conservation



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- Communicate to assess goals and reach consensus
- Consider the lease term
- Set farming standards
- Address specific practices
- Consider the costs and compensation
- Agree to review and revise



Kick starting Communication



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- To the Landowner: What are your future plans for the farm?
- To the Farmer: Are there characteristics of the farm that could be improved?
- See Appx. B of Ag Conservation Leasing Guide.



Length of Lease



- Short leases discourage conservation practices
 - Farmers are not guaranteed a long-term interest in the leased land
 - Conservation practices often take time to create yield results
 - A year-to-year lease doesn't give farmer assurance that he/she will benefit from the practices

Set Standards



-Tenant shall follow the farming best practices of the State Department of Agriculture and the _____ County Soil Conservation District.

-Tenant shall, to the maximum extent possible, implement the best management practices and natural resource strategies outlined in the farm's soil conservation and water quality plan dated _____ and as amended from time to time.

Address Specific Practices



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- Example: Conservation Tillage
- Explain and define the practice
- Considerations
 - Does the farmer have the necessary equipment?
 - Would starting as reduced-till while phasing to no-till be beneficial?
 - What are the disease and weed management challenges and implications in a reduced-till and no-till system?

Conservation Tillage



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Tenant, in consultation with SCD, NRCS, and/or the State Department of Agriculture, shall reduce tillage as much as possible in accordance with the farm soil conservation and water quality plan.

Tenant shall maintain at least [insert percentage such as 30] % residue cover on the ground surface at planting.



Consider the Costs

- Possible costs include
 - Initial implementation/construction
 - Yield/Profit losses
 - Maintenance
- Consider addressing costs in the lease
 - Rent can be discounted
 - Program payments can be shared
 - Non-monetary benefits (ex. longer lease term)
- Don't forget about the tax implications!

Compensation Options



Sample lease provision: To compensate Tenant for the time and expenses contributed towards the creation of a _____, rent in year one of the lease shall be reduced by \$_____ or %_____.

Alternative: The rent for the first year of the term will be reduced by 15% and the reduction shall diminish by 5% each year until the full rental amount is due and owing.

Troubleshooting



- Right to inspect and take soil samples?
- Share Nutrient Management Plan?
- Agree to meet annually to verify practices
 - Revise as needed!



Thanks



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I am happy to take questions.



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