



THE OHIO STATE UNIVERSITY

COLLEGE OF FOOD, AGRICULTURAL,
AND ENVIRONMENTAL SCIENCES

Ohio House Agriculture and Conservation Committee

Interested Party Testimony – HB 397

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Chairman Koehler, Vice Chair Creech, Ranking Member Brent and members of the House Agriculture and Conservation Committee, thank you for the opportunity to testify today in support of House Bill 397. I am Peggy Kirk Hall, Associate Professor and Director of the Agricultural & Resource Law Program in the College of Food, Agricultural & Environmental Sciences at The Ohio State University. Funded through OSU Extension, the Agricultural & Resource Law Program is part of OSU Extension's Farm Office, a partner with the National Agricultural Law Center, and a founding member of the American Agricultural Law Association. We provide research and outreach on legal issues that affect Ohio, its resources, and the agricultural community both in Ohio and across the country.

Monitoring legislative proposals like HB 397 is an important part of my work in the Agricultural & Resource Law Program. I review state and federal legislation in the *Ohio Ag Law Blog* and in our monthly *Farm Office Live* webinar. I also publish law bulletins and videos on the Farm Office website that explain new laws, such as a recent five-part series on Senate Bill 52's changes to siting utility-scale wind and solar facilities. Our program has worked with other organizations to address legal issues that affect agriculture and rural communities, such as petition ditch law with the County Commissioners Association of Ohio, agricultural zoning law with the Ohio Township Association, and the current proposal, HB 397, with the Ohio State Bar Association Agricultural Law Committee.

I have answered many questions about farmland lease termination from farmland owners and tenant operators across the state. My records document dozens of lease termination issues. One example is a current situation with a tenant operator who farmed a parcel on a verbal lease for many years. When the land sold, the new owner advised the tenant operator in May that someone else would be farming the land. The tenant operator had already applied nutrients and herbicides on the fifty-acre parcel at a cost of several thousand dollars, which neither the new owner nor new operator have reimbursed.

Parties often end up in litigation over this type of farm lease termination issue, as in the Fourth District Court of Appeals case of *Martin v. Jones*, 2015-Ohio-3168. The court held in that case that a landlord's termination on April 8, after the tenant had applied fertilizer and purchased crop inputs, was a breach of the verbal farm lease. However, other courts in Ohio have reached varying conclusions over the amount of notice necessary to properly terminate a farm lease when the parties have not addressed termination. Litigation has created inconsistent common law rules for farm lease notice requirements across the state.

We offer many farmland leasing programs and resources at OSU, and we constantly encourage farmland owners and tenant operators to document the leasing arrangement in writing. I'm currently working with North Central Region Farm Management specialists to update our *Ag Lease 101* site, a collaborative website developed by farm management specialists in the Midwest that provides farmland leasing resources and sample written leases. A written farmland lease can prevent late termination issues by clearly requiring notice of termination by a certain date. However, our most recent survey of Ohio landowners and tenant operators indicated that only 47% of their farm leases were in writing. This reality necessitates the statutory termination date provisions of HB 397, which requires written notice of termination by a landlord by September 1. By enacting HB 397, Ohio would join other states in the Midwest that statutorily require written notice of termination from one to six months before the end of the farm lease period, as follows:

- Kansas – 30 days prior to March 1
- Missouri – 60 days before end of lease
- Wisconsin – 90 days before end of lease
- Indiana, Minnesota – three months before end of lease
- Illinois – four months before end of lease
- Nebraska – six months before end of lease
- Iowa, South Dakota – September 1

Because HB 397 would remove uncertainties over termination notice requirements when the parties to a farm lease have not addressed the issue and would reduce unanticipated financial losses and litigation between farmland owners and tenant operators, we support the proposal. OSU's Agricultural & Resource Law Program and the Farm Office team are prepared to use our Extension network to educate farmland owners and tenant operators of the new termination provisions if the legislature passes HB 397, while continuing to educate both parties on the importance of written farmland leases.

Chairman Koehler and members of the committee, thank you for the opportunity to share this testimony today. I am happy to answer your questions.