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H.B. 397
134th General Assembly

Bill Analysis

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Version: As Passed by the House

Primary Sponsors: Reps. Stewart and Kick

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SUMMARY

Termination of agricultural leases

- Requires an agricultural lease agreement to be terminated by written notice from the lessor to the lessee unless the lease agreement contains a termination date or method for providing notice of termination.
- Requires notice to terminate an agricultural lease agreement to be given by September 1, in the year it is to be effective, and sets the termination date after notice as the date harvesting is complete or December 31 of the year notice is given, whichever comes first.

Soil and water conservation district officer and employee liability

- Expands the options that boards of soil and water conservation districts have for employees and officers entrusted with funds to additionally allow the boards to provide insurance policies for these employees, in addition to the continuing option of executing surety bonds.

DETAILED ANALYSIS

Termination of agricultural leases

The bill amends the law for termination of agricultural lease agreements by requiring the landlord to give the tenant written notice of termination, unless the agreement provides a termination date or method for providing notice of termination. Written notice provided under the bill's provisions must be delivered by September 1, in the year the termination is to be effective, by personal delivery, fax, or email. This notice of termination is effective either on the

date harvesting is complete, or December 31 of the year the notice is given, whichever comes first.¹

The Statute of Frauds and Statute of Conveyances

The bill's termination provisions relate to existing law that is not contained in the bill. Chapter 1335 of the Revised Code, more commonly known as "the Statute of Frauds" has two applicable provisions:

- A provision requiring all interests in land, including leases, to be granted in writing;
- A provision prohibiting lawsuits involving interests in land, including leases, unless the interest is granted in writing.

A related statute, commonly known as "the Statute of Conveyances" requires leases to be signed by the lessor (generally the owner who leases the land to another) and requires the lessor's signature to be acknowledged before a notary public or other suitable official.²

Despite these statutory rules, under longstanding precedent, an oral agreement, including an oral agreement to lease agricultural land, can fall outside of the Statute of Frauds or Statute of Conveyances. Specifically, the parties' conduct can demonstrate the existence of an enforceable agreement, even if no written contract exists.³ The bill states that its provisions are applicable notwithstanding the requirements in the Statute of Frauds, but that it does not affect the requirements of the Statute of Conveyances.⁴

Definitions for termination of agricultural leases

As used in the bill's provisions regarding termination of agricultural leases:

- **Agricultural lease agreement** means an agreement or lease, whether written or oral, that establishes or modifies the terms, conditions, rules, or other provisions between a landlord and tenant concerning the use and occupancy of real property by one of the parties for agricultural purposes.
- **Agricultural purposes** means the use and occupancy of real property for the planting, growing, and harvesting of crops and all practices necessary for that planting, growing, and harvesting. Agricultural purposes *does not* mean the use and occupancy of real property for pasture, timber, farm buildings, horticultural buildings, or leases solely for equipment.

¹ R.C. 5301.71(B).

² R.C. 1335.04, 1335.05, and 5301.01, not in the bill.

³ See, e.g., *Checkers Pub, Inc. v. Sofios*, 2016-Ohio-6963 (6th Dist. Ct. App.) and *Martin v. Jones*, 2015-Ohio-3168 (4th Dist. Ct. App.).

⁴ R.C. 5301.71(B)(1) and (C).

- **Landlord** means the owner or lessor of real property used for agricultural purposes that is authorized to receive remuneration from a tenant under an agricultural lease agreement, and that has entered into, or has actual or constructive knowledge of, an agricultural lease agreement.
- **Tenant** means the person entitled under an agricultural lease agreement to use real property for agricultural purposes to the exclusion of all others.⁵

Soil and water conservation district employee liability

Under current law, boards of supervisors for soil and water conservation districts are required to provide for the execution of surety bonds for employees and officers entrusted with funds. The bill amends this requirement by instead requiring the board to either:

- Provide for the execution of surety bonds for employees and officers entrusted with funds (as under current law);
- By resolution, adopt a policy to allow for use of an employee dishonesty and faithful performance of duty insurance policy to cover financial or property loss caused by the fraudulent or dishonest actions of, and the failure to perform a duty prescribed by law for, an officer, employee, or appointee that is otherwise required by law to give an individual surety bond before entering upon the discharge of official duties.⁶

HISTORY

Action	Date
Introduced	08-24-21
Reported, H. Agriculture & Conservation	12-08-21
Passed House (89-2)	12-08-21

H0397-PH-134/ks

⁵ R.C. 5301.71(A).

⁶ R.C. 940.05(F).