



FARM COMMONS

12 WAYS TO GUIDE FARMERS TO LEGAL RESILIENCE

This handout summarizes the 12 things you need to know about farm law, the 12 ways you can guide farmers to legal resiliency, and the Farm Commons resources that will help you and your farmer-clients succeed.



Sustainable Agriculture
Research & Education

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LAND MATTERS



HERE'S 2 THINGS YOU NEED TO KNOW:

- 1 When it comes to farmland leasing, financing, and purchasing, the courts prefer to enforce the agreement of the parties. State laws generally come into play only when the parties didn't come to any agreement at all or when their agreement is deeply unfair.
- 2 Farmers and landowners can proactively prevent land matters problems by talking about a range of issues ahead of time and then memorializing their decisions on paper.

HERE'S 2 WAYS YOU CAN GUIDE FARMERS TO LEGAL RESILIENCY:

- 1 Guide farmers to be thorough in their discussions with landowners, tenants, and family members as they create leases and farmland documents, while motivating them to work through the details.
- 2 Help farmers understand the great value in writing down detailed agreements in terms of protecting memory and ensuring enforceability (and the importance of limiting their vulnerability if agreements are not in writing).

THESE FARM COMMONS RESOURCES CAN HELP:

- **Chemical Drift Prevention Tipsheet:** What actions can organic farmers take to protect their crops from chemical drift?
- **Chemical Drift Response Tipsheet:** Who is responsible & what actions can the organic farmer take to recover damages from chemical drift?
- **Creating a Strong Incubator Farm Lease:** A Toolbox
- **Drafting A Lease:** Questions For Farmers & Landowners To Ask
- **Fence Law Tipsheet:** A new property survey conflicts with a fence & the property line that has been followed for decades. What now?
- **Financing A Farmland Purchase:** Legal basics for traditional & non-traditional farmland purchases
- **Financing Farmland through an Effective Land Contract:** A Toolbox
- **Financing Your Farm Operation Through Personal Loans:** Promissory Notes
- **Inspirations for Creating a Long-Term Agricultural Lease for Agroforestry:** A Workbook
- **Lease Termination Tipsheet:** My landlord wants to end our lease. Can the landlord do that & can I prevent it?
- **Lease:** Who's Responsible for What Under a Farmland Lease? Tipsheet
- **FAQ:** Purchasing Land for Your Farm Operation
- **FAQ:** Land Leasing for Your Farm Enterprise

BUSINESS STRUCTURES



HERE'S 2 THINGS YOU NEED TO KNOW:

- 1 Business structures have the greatest likelihood of contributing to farm resiliency when farmers also write thorough organizing documents with authentic solutions geared for the farm's specific operation.
- 2 LLCs and corporations offer protection for personal assets from business liabilities, if basic best practices are met, but are not a substitute for insurance in any way.

HERE'S 2 WAYS YOU CAN GUIDE FARMERS TO LEGAL RESILIENCY:

- 1 Guide farmers to be thorough in their discussions with co-owners as they write management documents, while motivating them to work through the details.
- 2 Assist farmers in choosing a business structure that matches their needs and their tolerance for administrative duties.

THESE FARM COMMONS RESOURCES CAN HELP:

- **Choosing a Business Entity:** Flowchart
- **Farmer's Guide to Business Structures**
- **Farmer's Guide to Nonprofits**
- **Farmer's Guide to C Corporations****Farmer's Guide to Nonprofits**
- **Farmer's Guide to Choosing a Business Entity**
- **Farmer's Guide to Cooperatives**
- **Farmer's Guide to LLCs**
- **Farmer's Guide to S Corporations**
- **Farmer's Guide to Sole Proprietorships and General Partnerships**
- **Succession Planning Tipsheet:** I want to transfer my sustainable farm to a successor.
- **Where do I start?**
- **Why Form an LLC?:** Tipsheet
- **FAQ:** Building the Right Business Structure for Your Farm
- **Anti-Corporate Farming Laws:** Fundamentals and Flowcharts
- **Business Structure Considerations When Diversifying or Adding Value to Farm Products**
- **Business Structure Considerations When Joining Forces with Other Farmers**

LIABILITY & INSURANCE

HERE'S 2 THINGS YOU NEED TO KNOW:

- 1 Insurance is essential to managing the risks of accidents, injury, and food safety incidences on every farm as it provides an expert defense and a source of funds if the farm is found liable. Even a farm that does everything right needs to establish that fact in court.
- 2 Purchasing insurance can be especially complicated for farms with value-added, agritourism, educational, CSA programs, on-farm processing, or on-farm sales ventures. Building a good relationship with an insurance agent is essential.

HERE'S 2 WAYS YOU CAN GUIDE FARMERS TO LEGAL RESILIENCY:

- 1 Remind farmers of the importance of insurance in terms of preventing legal liability and in paying out if legal liability occurs.
- 2 When assisting with business planning for new ventures or planning events and agritourism, guide farmers to request appropriate coverage from their insurance provider.

THESE FARM COMMONS RESOURCES CAN HELP:

- **Insurance Tipsheet:** What insurance should I purchase for my sustainable farm? How much insurance do I need?
- **Managing the Sustainable Farm's Risks with Insurance:** Navigating Common Options
- **Managing Your Farming Legal Risks with Insurance:** A Farm Commons Tutorial

EMPLOYMENT LAW



HERE'S 2 THINGS YOU NEED TO KNOW:

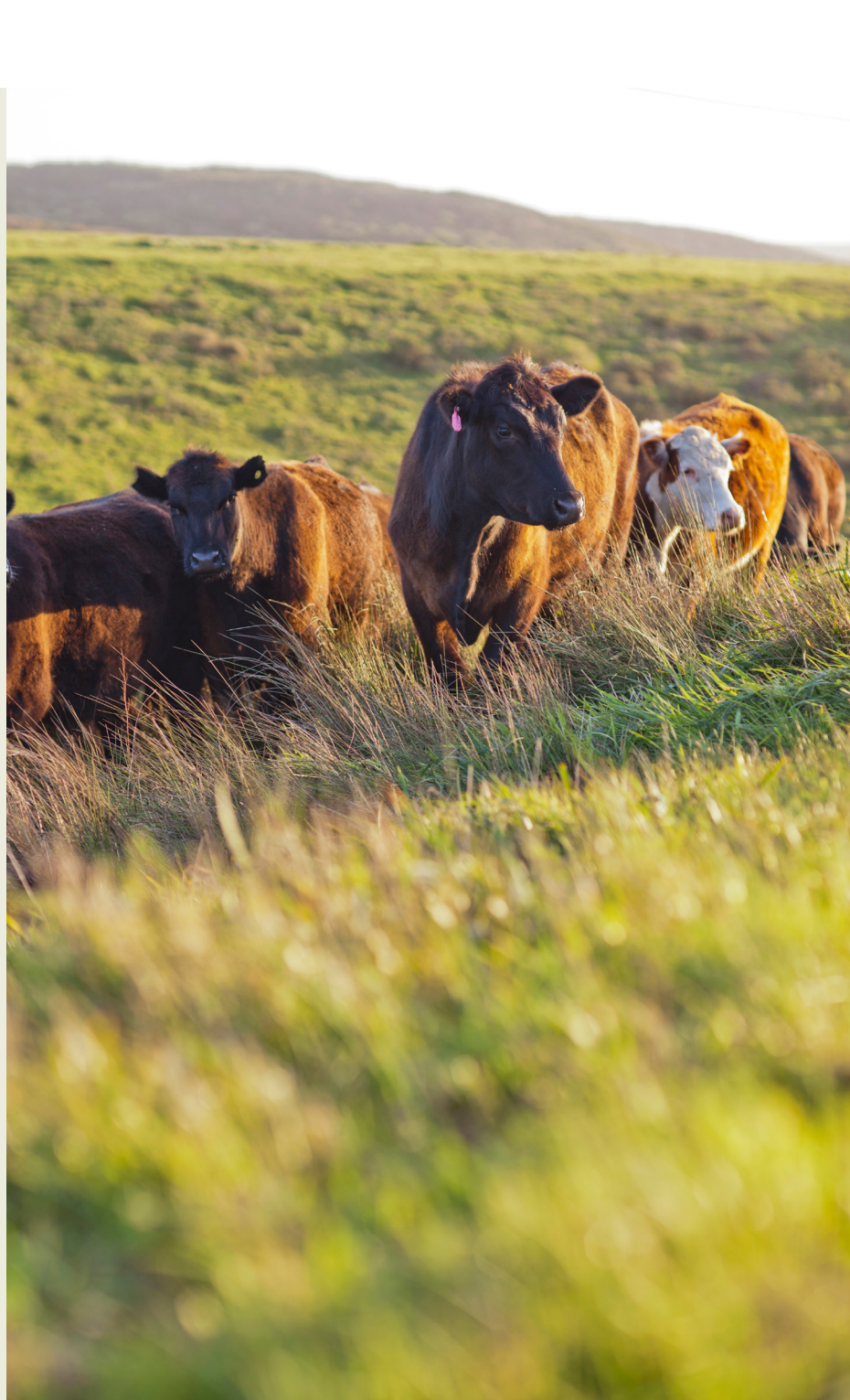
- 1 Almost everyone who works on a farm should be classified as an employee, so farmers can efficiently and quickly manage risk by assuming all workers are employees unless they've specifically confirmed with an attorney that the position is eligible for a different classification.
- 2 Farms are eligible for a number of exemptions from minimum wage, overtime, workers' compensation, and payroll taxes, but these exemptions depend on the precise tasks being assigned.

HERE'S 2 WAYS YOU CAN GUIDE FARMERS TO LEGAL RESILIENCY:

- 1 Assist farmers in doing business planning and modeling that accounts for the full costs of getting work done on the farm.
- 2 Guide farmers to appropriate resources to assist with the complex realities of farm employment law.

THESE FARM COMMONS RESOURCES CAN HELP:

- **Classifying Your Workers: Employees, Interns, Volunteers, or Independent Contractors?**
- **Coordinating Farm Labor Across Farms: A Toolbox for Diversified Farmers and Farmworkers**
- **Farm Employment Law:** Know the basics and make them work for your farm
- **Managing Risks of Interns and Volunteers**
- **Payroll Taxes Tipsheet:** How much can I pay workers before I need to pay attention to payroll tax, etc.?
- **Sample Farm Employee Handbook**
- **Tax and Paperwork Checklist for Hiring an Ag Employee**
- **FAQ:** When People Work on Your Farm



VALUE-ADDED & AGRITOURISM



HERE'S 2 THINGS YOU NEED TO KNOW:

- 1 Zoning is potentially the biggest legal issue when farmers pursue agritourism and value-added ventures.
- 2 Write in your second learning point here:

HERE'S 2 WAYS YOU CAN GUIDE FARMERS TO LEGAL RESILIENCY:

- 1 Assist farmers in understanding their zoning code, in making decisions based on the code's realities, and in working with regulatory authorities to achieve the farm's goals.
- 2 Write in your second action point here:

THESE FARM COMMONS RESOURCES CAN HELP:

- **Value-Added/Agritourism and Taxes Tipsheet:**
How does starting an agritourism or value-added venture affect my taxes?
- **Adding Value to Farm Products:**
The Legal Issues
- **Dealing with Regulators Tipsheet:** An inspector, certifier or other regulator has made a decision I disagree with. What can I do?
- **Host Safer, More Legally Secure On-Farm Events**
- **Working With Regulators**
- **FAQ:** Agritourism on Your Farm



SALES

SALES



HERE'S 2 THINGS YOU NEED TO KNOW:

- 1 Viewing the sales contract as an exercise to build trust and communication between buyer and seller is most likely to achieve farmers' primary goal of a profitable relationship, with enforceability as a secondary goal.
- 2 Practical limitations to successful written sales agreements abound, and neat solutions do not readily exist.

HERE'S 2 WAYS YOU CAN GUIDE FARMERS TO LEGAL RESILIENCY:

- 1 Guide farmers to be thorough in their discussions with buyers and customers as they establish sales relationships, while motivating them to work through the details.
- 2 Help farmers understand the great value in writing down detailed agreements in terms of protecting memory and ensuring enforceability (and the importance of limiting their vulnerability in the likelihood a written agreement doesn't result).

THESE FARM COMMONS RESOURCES CAN HELP:

- **Building a Legally Resilient CSA Program Workbook**
- **Building Strong, Legally Enforceable Sales Agreements for Production Services**
- **Building Strong, Legally Enforceable Sales Agreements with Availability Sheets and Invoices**
- **Choosing the Best Market Channel for Your Farm's Success and Your Happiness:** Legal and Practical Considerations
- **CSA Member Agreement Workbook**
- **Direct to Consumer Produce Sales in Wisconsin:** A Legal Guide
- **Farmer's Guide to Negotiating and Drafting an Agreement:** A Legal Guide
- **Solidifying Wholesale Sales with Written Agreements:** A Workbook
- **Writing a Sales Agreement for Farm Products**
- **FAQ:** Building Good Contracts and Sales Agreements



FARM COMMONS

ABOUT FARM COMMONS

Farm Commons is a nonprofit organization dedicated to empowering sustainable farmers with the legal resources they need. We create practical, user-friendly educational resources. We also support sustainable farmers in proactively implementing legal best practices, collaborating on innovative legal solutions, and encouraging each other as leaders creating the change they seek.



Visit farmcommons.org for FREE farm law resources about:

✓ Workers

✓ Value-Added / Tourism

✓ Sales & Contracts

✓ Business Structures

✓ Food Safety

★ And More!