

Bull Leasing Contracts

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Introduction

Leasing, at the fundamental level, is the temporary exchange of goods or real property for some form of compensation. Whether a person is leasing livestock, a vehicle or a piece of farmland, all leases have some things in common. A lease is essentially a legally enforceable agreement between two or more people where one person owns something that someone else is willing to pay to use for some period of time. Important basic provisions within any lease agreement include what you are agreeing to lease, the length of the lease and the price to be paid for leasing the property. In fact, it is entirely possible to create a lease agreement with just these three basic provisions.

Example:

John and Paul are both ranchers and Paul owns a bull that John wishes to rent. If John goes up to Paul and says, "I would like to rent that bull for five months and I will pay you \$450," and Paul agrees, then a lease is created immediately.

Besides the basic provisions found within all lease agreements, the issue of whether a lease needs to be done in writing must be addressed. In the previous example there was no mention of a written lease, and it is perfectly legal to create an oral lease in the State of Arkansas so long as it can be completed in less than one year.¹ Interrelated with the writing issue are the provisions that are often

needed to tailor the lease so that it fits the desires of both parties. As more provisions are added into a lease agreement, it is critical that they be placed in writing so that future disputes may be avoided whenever possible. How these provisions are handled before the lease is entered into will dictate how the lease will operate as well as address any problems that might arise throughout its term.

Livestock Leasing Provisions

Besides the basic provisions, certain other provisions are critical in developing a successful bull leasing contract. There are several different categories of provisions that a successful bull lease may include. Some examples of issues that should be addressed in a lease agreement are liability for the actions of the bull, insurance/risk of loss issues if the bull is injured or dies during some phase of the lease, performance of the bull and health concerns.

Liability Concerns

Liability concerns can be broken down into two basic issues. The first is determining who is responsible if the bull dies during some phase of the lease. When the bull dies and what causes the death are other factors that influence this problem. What happens if the bull dies before, during or after delivery? If the bull dies during or after delivery, then was anybody at fault and who bears the

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cost of replacing the bull? The parties to the lease can and should address this very real concern in the lease agreement.

The other issue that may arise is if the bull injures somebody. Whether the injuries were caused by an attack or because of an auto accident involving the bull, the questions on who may be liable for the bull's actions can be very complicated. Besides allocating the risk of loss or liability between the owner and the lessee, a written contract may also contain a provision requiring one or both parties to carry an insurance policy on the bull to protect against these events. It is possible that a general farm policy may adequately cover the risk; however, it is important to check with both parties' insurance companies to verify this before moving forward with the lease.

Performance and Health

Two other issues that are not typically found in most leases but are important in breeding leases deal with the performance and health of the livestock to be leased. Fertility testing can answer some questions; however, if calving rates are low after the bull is returned to the owner, then should the lease agreement contain something to compensate the lessee? A clause in the lease that deals with performance expectations can prevent this from becoming an issue later on.

Health concerns are another extremely important matter that should be addressed in any bull lease and, in some ways, are almost as critical as the required elements in a lease. Bulls that are moved from herd to herd have a greatly increased risk of contracting a disease and spreading it to the herds in question. Not only is there a common sense element associated with disease concerns, but there are legal requirements as well.

Any bull changing ownership (including leased bulls) within the State of Arkansas shall have a negative official trichomoniasis test within 30 days prior to change of ownership with no exposure to a female from 7 days prior to the test at the time of change of ownership.² Exceptions to this rule include virgin bulls under 24 months of age accompanied by an Arkansas Virgin Bull Affidavit and bulls designated for slaughter.³

Under Arkansas law, no bull may be brought across state lines without being accompanied by a negative test for trichomoniasis unless the bull is certified as a virgin bull under 24 months of age, and any bull that comes into the state without a negative test may not be commingled with any cows until a negative test comes back.⁴ Oklahoma, Texas, Louisiana, Missouri and Mississippi also have similar requirements on testing for trich⁵ as well as other diseases. Because of the mandatory testing requirements, it is important to consider things such as which party will be paying for the tests, when the tests are to be performed and if the bulls have to be kept separate from other livestock during the period between when the tests are run and when the results arrive.

Conclusion

Leasing livestock requires provisions that are not commonly found in other types of lease agreements. Not only do the parties have to take into account the basics of what must be in every lease agreement, they must also deal with issues such as liability, risk of loss, performance of the bull, complying with state laws pertaining to health concerns and delivery issues. How the parties deal with these issues in the initial lease agreement sets the tone for the rest of the arrangement and assists in dealing with some of the foreseeable problems that may arise during the lease.

¹ A.C.A. § 4-59-101

² Ark. Admin. Code 209.01.6.

³ Ark. Admin. Code 209.01.6.

⁴ Ark. Admin. Code 209.01.6.

⁵ See Okla. Admin. Code 35:15-38-2; 4 Tex. Admin. Code § 51.8(c); La. Admin. Code tit. 7, pt. XXI, § 339; Mo. Code Regs. Ann. tit. 2, § 30-2.010; 2-1-1 Miss. Code R. § 12.