

# WHAT TO CONSIDER WHEN DEVELOPING A LEASE AND A RENTAL RATE?

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Leasing Webinar Series  
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COLLEGE OF  
AGRICULTURE & NATURAL RESOURCES

DEPARTMENT OF AGRICULTURAL &  
RESOURCE ECONOMICS

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This presentation is intended to provide general information about leasing laws and should not be construed as providing legal advice. It should not be cited or relied upon as legal authority. State laws vary and no attempt is made to discuss laws of states other than Maryland. For advice about how these issues might apply to your individual situation, consult an attorney.

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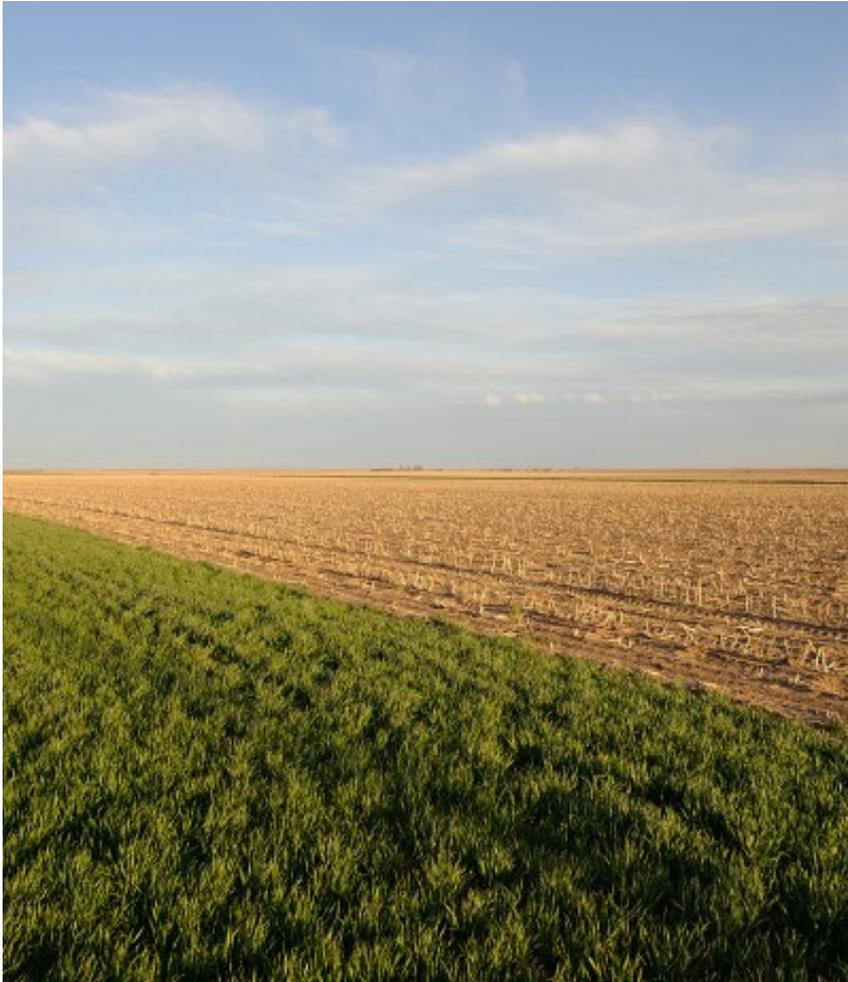
The University of Maryland: *MPowering the State* brings together two universities of distinction to form a new collaborative partnership. Harnessing the resources of each, the University of Maryland, College Park and the University of Maryland, Baltimore will focus the collective expertise on critical statewide issues of public health, biomedical informatics, and bioengineering. This collaboration will drive an even greater impact on the state, its economy, the job market, and the next generation of innovators. The joint initiatives will have a profound effect on productivity, the economy, and the very fabric of higher education.

- <http://www.mpowermaryland.com>

# OVERVIEW

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# Overview



- Many of you, may want to lease farmland
  - Either as a landlord or a tenant
- Leasing can be a big deal
  - Want to make sure your goals match the other party's goals

# Overview

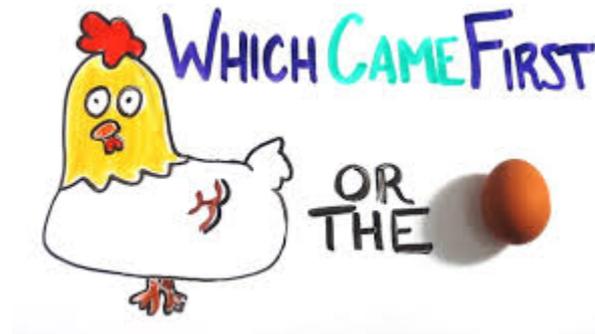
- Things you will need to consider when leasing your property:
  - What are your priorities?
  - Get the lease in writing
  - Conservation practices
  - Is there water
  - Rent
  - More we will discuss

# EVALUATE YOUR PRIORITIES

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# Evaluate Priorities

- What are your priorities?
  - Certain ways you want crops grown?
  - Long term lease?
- Why do you want to lease this land?
- Is the property zoned properly?
- Would an alternative relationship work better?
  - Custom farming?



# Evaluate Priorities



- On special note: if you have a conservation easement on the property
- Make sure your priorities conform to the easement.

# RANDOM OUT-OF-STATE PRODUCER

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“I happen to disagree and feel that if there were more deals done with a handshake, this country would be a whole lot better off.”

# Written Lease

- Quote highlights the problem in ag:
  - Lack of written farmland leases
  - Issues will exist with memory
- Developing a lease is not a simple document



# Written Lease



- Will want to put lease in writing
- View it as a reference tool
- You can skip this of course if you and the other party both suffer from Hyperthymesia

# CONSERVATION PRACTICES

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# Conservation Practices

- Important to remember is an implied covenant to use good husbandry practices in many leases
- Broad but means those agricultural practices that conserve fertility, usefulness, and value of the soil.
- May not fit your idea of conservation practices



# Conservation Practices



- Clearly define what practices you want the farmer to use:
  - No-till
  - Organic
  - Rotational grazing
- You would be shocked how many landowners do not do this

# Conservation Practices

- Along with conservation, make sure you understand environmental regs that will impact the farm
- Understand nutrient management regs



# OTHER CONSIDERATIONS

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# Water, Water, Water

- Is there a source of water?
- Irrigation equipment?
- Who pays for repairs to any well?



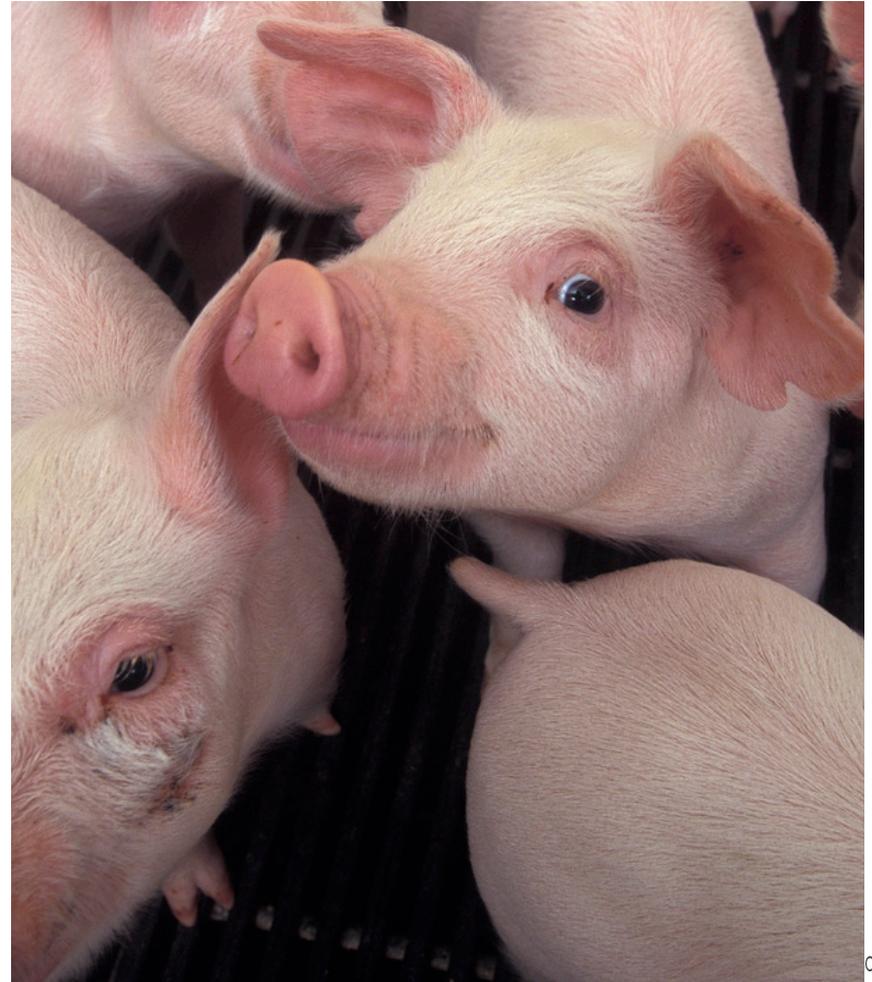
# Rent



- What is the rental rate going to be?
  - Cash rent
  - Crop-share
  - Flex-cash
- Will you reevaluate rent each year?
  - Will a 2013 rent work in 2015/16?

# Rent

- Set a date rental payment is due on
- Make sure date is far enough from harvest to allow tenant to get records together. Big deal for crop-share and flex-cash



SOURCES



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# Other Considerations

- Who is responsible for buildings, fences, or other structures on the farm?
  - Potential tradeoff in rent for tenant taking care of?
- Liability insurance
  - Is tenant going to be bringing people on the farm?
  - Should you require tenant to carry certain level of insurance
  - Landowner's homeowner's policy will typically not cover commercial activities from leasing a farm
- Crop Insurance
  - Cash lease – landlord may require
  - Crop-share – landlord may participate in

# Other Considerations



- Developing issue, modern ag practices creates data:
  - Yield data from harvest
  - Nutrient data
  - Etc
- Clarify in the lease that you get access to this data when lease is terminated

# Growing Crops

- What if you have crops growing when the lease terminates?
  - Common law view was if the lease had a definite termination date then not entitled to harvest growing crops
- Are exceptions to this rule
  - What is the practice in the area? Did landlord make some assurances?



# Growing Crops



- Highlight this so you will remember to settle this issue in the lease.
- Typically way to handle is to allow tenant reasonable time to collect unharvested crops at harvest time

# Legal Protections

- Get curious about discussion of growing crops and other legal protections
- Check out MD RME Blog at [www.aglaw.umd.edu](http://www.aglaw.umd.edu)

FREQUENTLY ASKED QUESTIONS: DO I HAVE THE RIGHT TO GROWING CROPS WHEN THE LEASE TERMINATES?

*January 5, 2015 / Paul Goeringer*



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# How to compensate for improvements if the lease ends early?

- What happens if you decide a rented farm needs to be irrigated and your landlord doesn't agree, so you go out pay to put in the irrigation equipment and 3 years later landlord terminates the lease?
- Another way is to consider in the lease including language that before the tenant makes any improvements over a certain dollar value (for example \$500) will talk with landlord first:
  - Have landlord agree that improvement is necessary
  - If landlord won't pay set up payment schedule if lease terminated early.

# How to compensate for improvements if the lease ends early?

- For example:
  - Tenant needs to include a barn on the rented farmland to aid with her cattle operation, barn would cost \$100,000 to build, have a useful life of 20 years, and depreciate at \$5,000/year.
  - Landlord agrees for the barn to be built and if the lease is terminated within the next 20 years, then landlord agrees to pay to tenant the undepreciated amount of the barn.
    - If terminated 1 year after building the barn then landlord would pay \$95,000 to tenant
    - If terminated in year 15, then landlord would pay tenant \$25,000.

# Know How the Lease Terminates, Automatically Renews, and How to Recalculate Rent

- Want to know clearly early on how to terminate the lease or what if anything needs to be done to renew the lease.
- As tenant:
  - How many months notice would you like to get/give to terminate?
  - Should you be required to give notice that you want to renew the lease?
  - Should the rent be recalculated every few years?
- As landlord:
  - How many months notice is enough when terminating the lease? How long would it take to find a new tenant?
  - Do you want some kind of notice each year from tenant on renewing the lease?
  - How often should rent be recalculated?

# Lease Termination

- Lease may terminate on certain date, may or may not require notice to be given
- Either party will need to follow proper termination process
- If lease specifies process, then follow that process exactly
- If lease doesn't then must follow Maryland law and that requires 6 months notice to terminate a farm lease (MD. Code Real Property Section 8-402)
  - Allows for oral notice of termination, but again better practice to use written notice.
  - Written provides a record.

# Lease Renewal

- Lease renewal is always the responsibility of the tenant
  - Landlord can never force a tenant to renew
  - Landlord can only accept offer to renew or find a new tenant
- Lease can also extend automatically until notice of termination is given. Very common in agricultural leases.
- Maybe in both parties best interest to require some form of notice (around same time notice of termination would be due) that tenant would like to renew the lease the next year.

# Resources Available for Landowners

- Cox, E. *Landowner's Guide to Sustainable Farm Leasing*, Drake Ag Law Center (<http://sustainablefarmlease.org/wp-content/uploads/2010/08/The-Guide2.pdf>).
- University of Maryland Extension's Leasing page at <http://bit.ly/MdAgLease>
  - *Agricultural Leasing in MD* guide
  - Cash rental rates
  - Form leases

# SETTING A FAIR RENTAL RATE

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# Question that I hate

- I hate the phone call that eventually ends with “Paul, is \$X a good rental rate?”
- Why do I hate this question?
  - Answer is simple, I have no idea what a good rental rate is on any property
  - Well I do but its going to be one that I’m actually farming on because I will know the issues we are about to discuss
- Thing is most of you will know what we are about to talk about

SIMPLEST WAY

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# Fair Rental Rate?

RENT, CASH, CROPLAND, NON-IRRIGATED - EXPENSE, MEASURED IN \$ / ACRE													
County	2002*	2003*	2004*	2005*	2006*	2007*	2008	2009	2010	2011	2012	2013	2014
Dorchester	\$67.50	\$62.72	\$73.58	\$82.56	\$76.92	\$77.54	\$65.50	\$76.00	\$68.50	\$75.50	\$66.00	\$83.00	\$ 95.50
Somerset	\$66.85	\$61.46	\$67.09	\$62.57	\$63.55	\$64.68	\$64.00	\$63.50	\$70.00	\$69.50	\$73.00	\$74.00	\$ 76.50
Talbot	\$69.77	\$78.40	\$74.86	\$76.71	\$83.12	\$83.02	\$71.00	\$78.00	\$75.50	\$77.50	\$105.00	\$114.00	\$ 109.00
Wicomico	\$53.91	\$58.56	\$62.86	\$71.45	\$73.20	\$73.21	\$64.00	\$65.50	\$64.50	\$67.50	\$84.50	\$80.50	\$ 77.50
Worcester	\$65.84	\$73.08	\$73.16	\$75.04	\$80.64	\$82.38	\$79.00	\$82.50	\$77.50	\$77.00	\$82.00	\$92.50	\$ 84.50

RENT, CASH, CROPLAND, IRRIGATED - EXPENSE, MEASURED IN \$ / ACRE					
State & County	2010	2011	2012	2013	2014
Dorchester	\$110.00	\$100.00	\$152.00	\$160.00	\$161.00
Somerset	\$110.00	\$123.00	---	---	\$111.00
Talbot	\$119.00	\$119.00	---	\$131.00	
Wicomico	\$118.00	\$123.00	\$135.00	\$137.00	\$140.00
Worcester	\$110.00	\$123.00	\$100.00	\$104.00	\$111.00

# Fair Rental Rate

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Farm Bill

## Grain Marketing

**NEW**

2015 Custom Rates and Crop Budgets now posted!

**Headlines:**

Rolling Clovers 4-H Club February Update

Uses for Your Nutrient Management Plan (Other Than a Doorstop)

2015: International Year of Soils

The Mid Winter Blah's

Progressive Clovers February Update

[More headlines](#)

- Remember those are averages
  - So rents can be higher and lower than that \$
- Available online for you at UME Grain Marketing page

# Fair Rental Rate

- Can also find at [aglaw.umd.edu](http://aglaw.umd.edu)
- USDA releases about August or September of each year

2014 MARYLAND AND DELAWARE COUNTY CASH RENTS

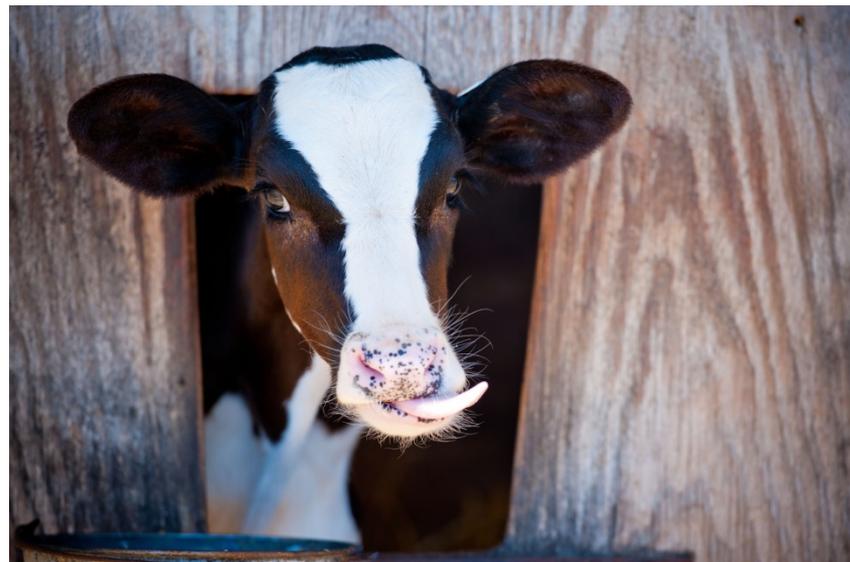
September 14, 2014 / Paul Goeringer



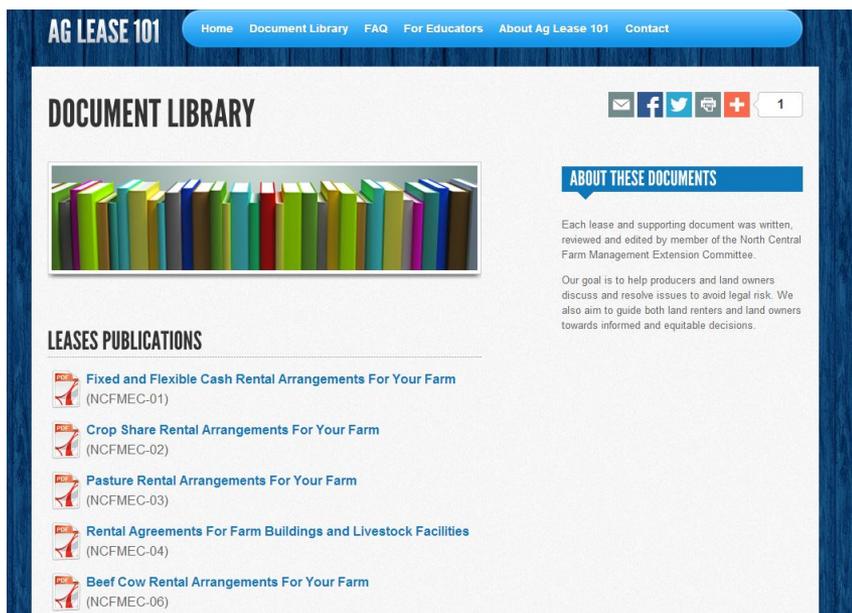
Photo by Edwin Rensberg

# How to Calculate a Good Rent Price

- Many may have no idea where to start in calculating rent.
- Going to be a big deal to set a good rent:
  - Needs to be at level beginning farmer can afford
  - Needs to be at a level that is good for landlord
  - Potentially going to have to look at renegotiating this every year (not something we normally do in ag).



# How to Calculate a Good Rent Price

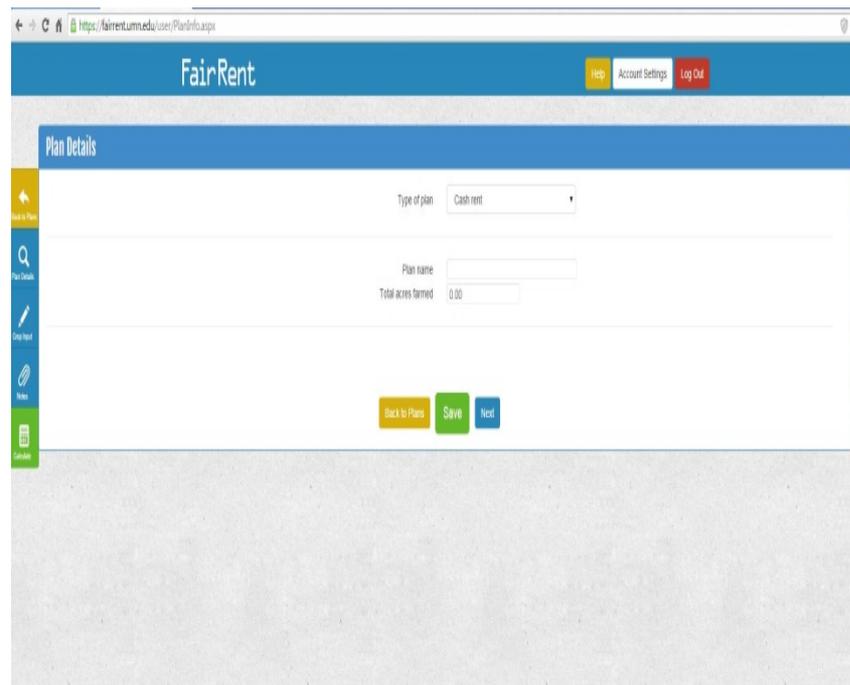


The screenshot shows the website for Aglease101.org. The header includes the site name and navigation links: Home, Document Library, FAQ, For Educators, About Ag Lease 101, and Contact. Below the header is a 'DOCUMENT LIBRARY' section with a row of colorful books. To the right of the books is a social media sharing bar with icons for email, Facebook, Twitter, LinkedIn, and a plus sign, along with a page number '1'. Below the books is a section titled 'ABOUT THESE DOCUMENTS' which contains text explaining that the documents were written, reviewed, and edited by a member of the North Central Farm Management Extension Committee. Below this is a section titled 'LEASES PUBLICATIONS' which lists five documents with PDF icons and their titles: 'Fixed and Flexible Cash Rental Arrangements For Your Farm (NCFMEC-01)', 'Crop Share Rental Arrangements For Your Farm (NCFMEC-02)', 'Pasture Rental Arrangements For Your Farm (NCFMEC-03)', 'Rental Agreements For Farm Buildings and Livestock Facilities (NCFMEC-04)', and 'Beef Cow Rental Arrangements For Your Farm (NCFMEC-06)'.

- Aglease101.org has worksheets available to help calculate this rent level
- Has resources available to do cash, flex-cash, and crop-share rents

# How to Calculate a Good Rent Price

- Don't like printing off a worksheet and using pen and paper?
- Fairrent.umn.edu is new online resource that lets user input in factors and it spits out rent levels.



The screenshot shows a web browser window with the URL <https://fairrent.umn.edu/user/PlanInfo.aspx>. The page title is "FairRent". The interface includes a navigation bar with "Help", "Account Settings", and "Log Out" buttons. The main content area is titled "Plan Details" and contains a form with the following fields:

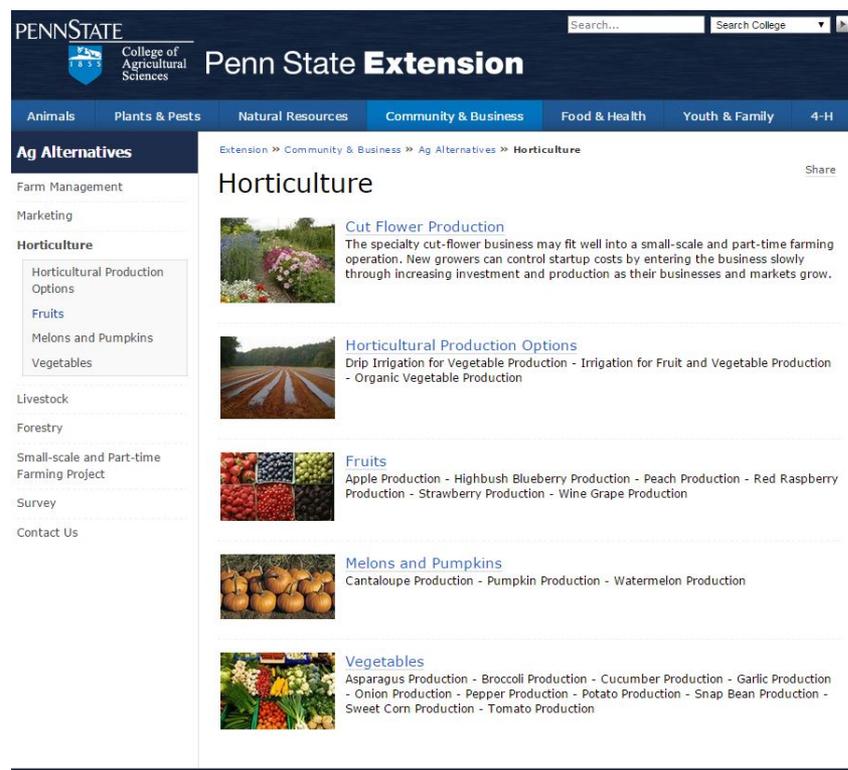
- Type of plan: Cash rent (dropdown menu)
- Plan name:
- Total acres farmed:

At the bottom of the form, there are three buttons: "Back to Plans" (yellow), "Save" (green), and "Next" (blue). A vertical sidebar on the left contains icons for "Back to Plans", "Plan Details", "Crop Yield", "Input", and "Calculate".

# How to Calculate a Good Rent Price

- Main drawback to both resources are you have to know your costs of production.
- If no idea what those are, budgets exist to give you an idea of some costs of production.

<http://extension.psu.edu/business/ag-alternatives/horticulture>



The screenshot displays the Penn State Extension website. The header includes the Penn State logo and the text 'College of Agricultural Sciences' and 'Penn State Extension'. A navigation menu lists categories: Animals, Plants & Pests, Natural Resources, Community & Business, Food & Health, Youth & Family, and 4-H. The main content area is titled 'Horticulture' and features a sidebar with 'Ag Alternatives' and 'Horticulture' sub-sections. The main content area lists several articles with images and titles: 'Cut Flower Production', 'Horticultural Production Options', 'Fruits', 'Melons and Pumpkins', and 'Vegetables'. Each article includes a brief description of the topic.

# How to Calculate a Good Rent Price

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Home

About:

This website includes grain marketing information as well as many other topics related to farm risk management including custom rates, crop budgets, crop insurance and farm lease agreements.

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Grain Marketing

2015 Custom Rates and Crop Budgets now posted!

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Progressive Clovers February Update

More headlines

Cost Per Acre 2015

Year	Cost Per Acre
2013	\$100.00
2014	\$100.00
2015	\$100.00

- You will need to know costs of production
  - What does it take you to traditionally produce an acre of your crop?
  - What do you need to sale that crop at to make a profit?
- UME does have budget available for some crops [www.extension.umd.edu/grainmarketing](http://www.extension.umd.edu/grainmarketing)

# How to Calculate a Good Rent Price

- Can always talk to neighbors
- Good resource especially for beginning producers



SOURCES



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# Example Farm

FairRent

Crop Input for Sample produce farm

Crop	Tomato	Watermelons	Sweet Corn
Unit	Acre	Acre	Acre
Acres	2	2	2
Expected yield	500.00	2,000.00	1,250.00
Expected price	\$10.00	\$3.00	\$3.00
Other income	0.00	0.00	0.00
Seed	539.95	900.00	51.40
Fertilizer	115.25	151.87	81.70
Chemicals	778.64	246.43	397.36
Crop insurance	0.00	0.00	0.00
Drying	0.00	0.00	0.00
Custom hire	115.87	249.80	135.85
Direct crop labor	1,003.44	1,357.70	280.50
Fuel	36.30	60.45	117.01
Repairs	8.92	33.38	84.18
Irrigation	650.00	787.80	217.80
Other direct expenses	1,483.54	1,344.90	921.80
Overhead expenses	0.00	0.00	0.00
Operating interest	42.87	62.67	27.62
Interest on rent	0.00	0.00	0.00
Operator labor & mgt.	0.00	141.75	30.75
Crop insurance APH	0.00	0.00	0.00
Crop Insurance price	0.00	0.00	0.00
Crop ins. coverage (%)	0.00	0.00	0.00

Add a Crop
Delete
Delete
Delete

Prev
Save
Next

<b>Remaining for rent</b>	<b>663.25</b>	<b>1,404.03</b>	<b>225.22</b>		
<b>Breakeven rent for all crops</b>	<b>764.17</b>				
<b>Maximum Rent to Cover Expenses</b>	30 % Lower Revenue	15 % Lower Revenue	Expected Revenue	15 % Higher Revenue	30 % Higher Revenue
To cover direct expenses	-653	84	822	1,559	2,297
To cover direct and ovrhd expenses	-653	84	822	1,559	2,297
To cover unpaid labor & management	-711	27	764	1,502	2,239

© Center For Farm Financial Management  
University of Minnesota

FairRent  
www.fairrent.umn.edu

Sample produce farm

Page 2

11/5/2014

### Cash Rental Analysis: Breakeven Cash Rent at Varying Yields and Prices

#### Watermelons

Price	1,400.00		1,700.00		Yield Per Acre		2,000.00	2,300.00	2,600.00
Per Acre	2.10	2.55	3.00	3.45	3.90	2.10	2.55	3.00	3.45
	-2,397	-1,767	-1,137	-507	123	-1,137	-507	123	123
	2,55	-1,767	-1,002	-237	528	-237	528	1,293	1,293
	3,00	-1,137	-237	663	1,563	663	1,563	2,463	2,463
	3,45	-507	528	1,563	2,598	1,563	2,598	3,633	3,633
	3,90	123	1,293	2,463	3,633	2,463	3,633	4,803	4,803

#### Sweet Corn

Price	875.00		1,062.50		Yield Per Acre		1,250.00	1,437.50	1,625.00
Per Acre	2.10	2.55	3.00	3.45	3.90	2.10	2.55	3.00	3.45
	-508	-115	363	842	1,320	279	673	1,067	1,067
	2,55	-115	363	842	1,320	842	1,320	1,798	1,798
	3,00	279	842	1,404	1,967	1,404	1,967	2,529	2,529
	3,45	673	1,320	1,967	2,613	1,967	2,613	3,260	3,260
	3,90	1,067	1,798	2,529	3,260	2,529	3,260	3,992	3,992

#### Tomato

Price	350.00		425.00		Yield Per Acre		500.00	575.00	650.00
Per Acre	7.00	8.50	10.00	7.00	8.50	7.00	8.50	10.00	7.00
	-2,325	-1,800	-1,275	-1,275	-750	-1,275	-750	-225	-225
	8,50	-1,800	-1,162	-525	113	-525	113	750	750
	10,00	-1,275	-525	225	975	225	975	1,725	1,725

# Revisiting Rental Rates

- Big deal with cash rents
  - Many farmers still paying same rate they got 20 years ago on a farm – not just in Maryland all over the US.
  - Maybe in both parties interest to include language to recalculate the rental rate every 2 to 3 years.
    - That way cash rental rate isn't too low
    - As tenant could help prevent other farmers coming in and offering landlord more rent
- Same with flex-cash and crop-share rates, offer to revisit every 2 to 3 years just to make sure that:
  - Base rental rate (if you have one) accurately reflects any increases in cash rent value
  - Make sure all yield increasing expenses are covered (new tech. could come along not covered by original agreement).

# THANKS

# ANY QUESTIONS?

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