

32-962. Same; programs for conservation. (a) The secretary shall establish such programs, including acquisition of land or aquatic habitat, as are deemed necessary for the conservation of nongame, threatened and endangered species. The secretary shall utilize all authority vested in the secretary by the laws of this state to carry out the purposes of this section with the exception that the secretary shall not utilize the power of eminent domain to carry out such programs unless a specific authorization and appropriation is made therefor by the legislature.

(b) (1) In carrying out programs authorized by this section, the secretary may enter into agreements with federal agencies, other states, other state agencies, political subdivisions of this state or private persons for administration and management of any area established under this section or utilized for conservation of nongame species, species in need of conservation or threatened or endangered species. Such programs shall include, but not be limited to, the following conservation agreements:

(A) **Prelisting conservation agreement:** An agreement identifying land where the contracting entity agrees to carry out management activities that increase the likelihood of species survival before a species is listed as threatened or endangered. The intent of such agreement would be to allow the contracting entity to carry out management activities specified in the agreement during the life of the agreement without penalties of law enforcement action or permitting requirements if the species is listed at a later date.

(B) **Safe harbor agreement:** An agreement in which the contracting entity agrees to maintain or enhance suitable, but currently unoccupied, habitat for a species listed as in need of conservation, threatened or endangered so as to increase utilization of the habitat by a listed species. The intent of such agreement would be to protect the contracting entity from any restrictions on land use that might otherwise occur if a listed species immigrates into the habitat.

(C) **No take agreement:** An agreement allowing the contracting entity to implement voluntary management activities that maintain, enhance, set aside or create habitat for species listed as in need of conservation, threatened or endangered. The intent of such agreement would be to provide assurance that the management activities specified in the agreement would not lead to penalties of law enforcement action or permitting requirements if future changes in land use are needed.

(2) The initial term of any agreement pursuant to subsection (b)(1) shall be five years. An agreement may be continued, with or without modification, after the five-year term, subject to review and determination by all parties. In the absence of a mutually satisfactory determination by the parties that an agreement should continue, the agreement will terminate.

(c) The governor shall review other programs administered by the governor and utilize such programs in furtherance of the purposes of the nongame and endangered species conservation act. All state agencies shall cooperate with the secretary in furtherance of the conservation of nongame, threatened and endangered species.

History: L. 1975, ch. 221, § 6; L. 1989, ch. 118, § 93; L. 1997, ch. 113, § 5; May 1.