

109TH CONGRESS  
1ST SESSION

# S. 343

To provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry and for the rollover of Capital Construction Funds to individual retirement plans, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2005

Mr. WYDEN (for himself and Mr. SMITH) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry and for the rollover of Capital Construction Funds to individual retirement plans, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Capital Construction  
5       Fund Qualified Withdrawal Act of 2005”.

1 **SEC. 2. AMENDMENT OF THE MERCHANT MARINE ACT OF**  
 2 **1936 TO ENCOURAGE RETIREMENT OF CER-**  
 3 **TAIN FISHING VESSELS AND PERMITS.**

4 (a) IN GENERAL.—Section 607(a) of the Merchant  
 5 Marine Act, 1936 (46 U.S.C. App. 1177(a)) is amended  
 6 by adding at the end the following: “Any agreement en-  
 7 tered into under this section may be modified for the pur-  
 8 pose of encouraging the sustainability of the fisheries of  
 9 the United States by making the termination and with-  
 10 drawal of a capital construction fund a qualified with-  
 11 drawal if done in exchange for the retirement of the re-  
 12 lated commercial fishing vessels and related commercial  
 13 fishing permits.”.

14 (b) NEW QUALIFIED WITHDRAWALS.—

15 (1) IN GENERAL.—Section 607(f)(1) of the  
 16 Merchant Marine Act, 1936 (46 U.S.C. App.  
 17 1177(f)(1)) is amended—

18 (A) by striking “for:” and inserting  
 19 “for—”;

20 (B) by striking “vessel” in subparagraph  
 21 (A) and inserting “vessel;”;

22 (C) by striking “vessel, or” in subpara-  
 23 graph (B) and inserting “vessel;”;

24 (D) by striking “vessel.” in subparagraph  
 25 (C) and inserting “vessel;” and

1           (E) by inserting after subparagraph (C)  
2 the following:

3           “(D) the payment of an industry fee au-  
4 thorized by the fishing capacity reduction pro-  
5 gram under section 312(b) of the Magnuson-  
6 Stevens Fishery Conservation and Management  
7 Act (16 U.S.C. 1861a(b));

8           “(E) in the case of any such person or  
9 shareholder for whose benefit such fund was es-  
10 tablished with respect to any vessel operated in  
11 the fisheries of the United States, or any share-  
12 holder of such person, a rollover contribution  
13 (within the meaning of section 408(d)(3) of the  
14 Internal Revenue Code of 1986) to such per-  
15 son’s or shareholder’s individual retirement plan  
16 (as defined in section 7701(a)(37) of such  
17 Code);

18           “(F) the payment of the net proceeds de-  
19 posited into the fund from a sale described in  
20 subsection (b)(1)(C)(ii) to a person retiring re-  
21 lated commercial fishing vessels and permits;

22           “(G) the acquisition of a vessel monitoring  
23 system as a safety improvement for a fishing  
24 vessel; or

1           “(H) the acquisition or construction of  
2           fishing gear designed to minimize or avoid by-  
3           catch as required under section 301(a)(9) of the  
4           Magnuson-Stevens Fishery Conservation and  
5           Management Act (16 U.S.C. 1851(a)(9)).”.

6           (2) REDUCTION PROGRAM SALE PROCEEDS AL-  
7           LOWED IN DETERMINING DEPOSIT CEILING.—Sec-  
8           tion 607(b)(1)(C) of such Act (46 U.S.C. App.  
9           1177(b)(1)(C)) is amended by striking “or (ii)” and  
10          inserting “(ii) the sale of any agreement vessel or  
11          fishing permit retired through the fishing capacity  
12          reduction program under section 312(b) of the Mag-  
13          nuson-Stevens Fishery Conservation and Manage-  
14          ment Act (16 U.S.C. 1861a(b)), or (iii)”.

15          (3) CERTAIN QUALIFIED WITHDRAWALS TREAT-  
16          ED AS WITHDRAWN FROM THE CAPITAL ACCOUNT.—  
17          Section 607(e)(2)(B) of such Act (46 U.S.C. App.  
18          1177(e)(2)(B)) is amended by adding at the end  
19          “unless such portion represents gain from a sale de-  
20          scribed in subsection (b)(1)(C)(ii) and is withdrawn  
21          for any purpose provided under subparagraph (D),  
22          (E), or (F) of subsection (f)(1),”.

23          (4) SECRETARY TO ENSURE RETIREMENT OF  
24          VESSELS AND PERMITS.—The Secretary of Com-  
25          merce by regulation shall establish procedures to en-

1 sure that any person making a qualified withdrawal  
2 authorized by section 607(f)(1)(F) of the Merchant  
3 Marine Act, 1936 (46 U.S.C. App. 1177(f)(1)(F))  
4 retires the related commercial use of fishing vessels  
5 and commercial fishery permits.

6 (c) CONFORMING AMENDMENTS.—

7 (1) IN GENERAL.—Section 7518(e)(1) of the  
8 Internal Revenue Code of 1986 (relating to purposes  
9 of qualified withdrawals) is amended—

10 (A) by striking “for:” and inserting  
11 “for—”;

12 (B) by striking “vessel, or” in subpara-  
13 graph (B) and inserting “vessel;”;

14 (C) by striking “vessel.” in subparagraph  
15 (C) and inserting “vessel;”;

16 (D) by inserting after subparagraph (C)  
17 the following:

18 “(D) the payment of an industry fee au-  
19 thorized by the fishing capacity reduction pro-  
20 gram under section 312 of the Magnuson-Ste-  
21 vens Fishery Conservation and Management  
22 Act (16 U.S.C. 1861a);

23 “(E) in the case of any person or share-  
24 holder for whose benefit such fund was estab-  
25 lished with respect to any vessel operated in the

1 fisheries of the United States, or any share-  
 2 holder of such person, a rollover contribution  
 3 (within the meaning of section 408(d)(3)) to  
 4 such person's or shareholder's individual retire-  
 5 ment plan (as defined in section 7701(a)(37));

6 “(F) the payment of the net proceeds de-  
 7 posited into the fund from a sale described in  
 8 subsection (a)(1)(C)(ii) to a person retiring re-  
 9 lated commercial fishing vessels and permits;

10 “(G) the acquisition of a vessel monitoring  
 11 system as a safety improvement for a fishing  
 12 vessel; or

13 “(H) the acquisition or construction of  
 14 fishing gear designed to minimize or avoid by-  
 15 catch as required under section 301(a)(9) of the  
 16 Magnuson-Stevens Fishery Conservation and  
 17 Management Act (16 U.S.C. 1851(a)(9)).”.

18 (2) REDUCTION PROGRAM SALE PROCEEDS AL-  
 19 LOWED IN DETERMINING DEPOSIT CEILING.—Sec-  
 20 tion 7518(a)(1)(C) of such Code is amended by  
 21 striking “or” at the end of clause (i), by redesign-  
 22 ating clause (ii) as clause (iii), and by inserting  
 23 after clause (i) the following new clause:

24 “(ii) the sale of any agreement vessel  
 25 or fishing permit retired through the fish-

1           ing capacity reduction program under sec-  
2           tion 312(b) of the Magnuson-Stevens Fish-  
3           ery Conservation and Management Act (16  
4           U.S.C. 1861a(b)), or”.

5           (3) CERTAIN QUALIFIED WITHDRAWALS TREAT-  
6           ED AS WITHDRAWN FROM THE CAPITAL ACCOUNT.—  
7           Section 7718(d)(2)(B) of such Code is amended by  
8           adding at the end “unless such portion represents  
9           gain from a sale described in subsection (a)(1)(C)(ii)  
10          and is withdrawn for any purpose provided under  
11          subparagraph (D), (E), or (F) of subsection  
12          (e)(1),”.

13          (4) SECRETARY TO ENSURE RETIREMENT OF  
14          VESSELS AND PERMITS.—The Secretary of the  
15          Treasury by regulation shall establish procedures to  
16          ensure that any person making a qualified with-  
17          drawal authorized by section 7518(e)(1)(F) of the  
18          Internal Revenue Code of 1986 retires the related  
19          commercial use of fishing vessels and commercial  
20          fishery permits referred to therein.

21          (d) EFFECTIVE DATE.—The amendments made by  
22          this section shall apply to withdrawals made after the date  
23          of enactment of this Act.

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