H. R. 3264

To amend the Investment Company Act of 1940 to promote the establishment
of small business investment companies.

———————————————

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 1999

Mr. KUYKENDALL (for himself and Mr. CAMPBELL) introduced the following
bill; which was referred to the Committee on Commerce

———————————————

A BILL

To amend the Investment Company Act of 1940 to promote
the establishment of small business investment companies.

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 "Small Business Invest-

5 ment Incentive Act of 1999".

6 **SEC. 2. EXEMPTION FROM REGISTRATION UNDER THE IN-**

7 **VESTMENT COMPANY ACT OF 1940.**

8 Section 6(a) of the Investment Company Act of 1940

9 (15 U.S.C. 80a–6(a)) is amended by adding at the end

10 the following new paragraph:

1 "(6)(A) Any company that is not engaged in

2 the business of issuing redeemable securities, the op-

3 erations of which are subject to regulation by the

4 Small Business Administration as a small business

5 investment company under the Small Business In-

6 vestment Act of 1958 (15 U.S.C. 661 et seq.) if—

7   "(i) the organizational documents of the

8   company state that the activities of the com-

9   pany are limited to providing financial and

10   business assistance to small business concerns

11   as a small business investment company li-

12   censed by the Small Business Administration

13   pursuant to the Small Business Investment Act

14   of 1958;

15   "(ii) the securities of the company are

16   sold, or proposed to be sold, by the company or

17   by any underwriter for the company, solely to

18   accredited investors, as that term is defined in

19   section 2(a)(15) of the Securities Act of 1933,

20   or to the Small Business Administration pursu-

21   ant to the Small Business Investment Act of

22   1958, or to such other persons that the Com-

23   mission, as necessary or appropriate in the pub-

24   lic interest and consistent with the protection of

1   investors, may permit by rule, regulation, or

2   order; and

3   "(iii) the company does not purchase any

4   security issued by an investment company or by

5   any company that would be an investment com-

6   pany except for the exclusions from the defini-

7   tion of the term 'investment company' under

8   paragraph (1) or (7) of section 3(c), other

9   than—

10   "(I) any debt security that is rated in-

11   vestment grade by not less than 1 nation-

12   ally recognized statistical rating organiza-

13   tion; or

14   "(II) any security issued by a reg-

15   istered open-end investment company that

16   is required by its investment policies to in-

17   vest not less than 65 percent of its total

18   assets in securities described in subclause

19   (I) or securities that are determined by

20   such registration open-end investment com-

21   pany to be comparable in quality to securi-

22   ties described in subclause (I).

23   "(B) Notwithstanding the exemption provided

24   by this paragraph, section 9 (and, to the extent nec-

25   essary to enforce section 9, sections 38 through 51)

1 shall apply to a company described in this paragraph

2 as if the company were an investment company reg-

3 istered under this title.

4   ''(C) Any company proposing to rely on the ex-

5 emption provided by this paragraph shall file with

6 the Commission a notification stating that the com-

7 pany intends to do so, in such form and manner as

8 the Commission may prescribe by rule.

9   ''(D) Any company meeting the requirements of

10 this paragraph may rely on the exemption provided

11 by this paragraph upon filing with the Commission

12 the notification required by subparagraph (C), until

13 such time as the Commission determines by order

14 that such reliance is not in the public interest or is

15 not consistent with the protection of investors.

16   ''(E) The exemption provided by this paragraph

17 may be subject to such additional terms and condi-

18 tions as the Commission may by rule, regulation, or

19 order determine are necessary or appropriate in the

20 public interest or for the protection of investors.''.

○