

2 HB 2641 - S AMD 723
3 By Senators West and Brown

4 ADOPTED 03/07/02

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. Sec. 1. The legislature finds that the application
8 of the business and occupation tax deductions provided in RCW
9 82.04.4281 for investment income of persons deemed to be "other
10 financial businesses" has been the subject of uncertainty, and
11 therefore, disagreement and litigation between taxpayers and the state.
12 The legislature further finds that the decision of the state supreme
13 court in *Simpson Investment Co. v. Department of Revenue* could lead to
14 a restrictive, narrow interpretation of the deductibility of investment
15 income for business and occupation tax purposes. As a result, the
16 legislature directed the department of revenue to work with affected
17 businesses to develop a revision of the statute that would provide
18 certainty and stability for taxpayers and the state. The legislature
19 intends, by adopting this recommended revision of the statute, to
20 provide a positive environment for capital investment in this state,
21 while continuing to treat similarly situated taxpayers fairly.

22 Sec. 2. RCW 82.04.4281 and 1980 c 37 s 2 are each amended to read
23 as follows:

24 (1) In computing tax there may be deducted from the measure of tax:
25 (a) Amounts derived ((by persons, other than those engaging in
26 banking, loan, security, or other financial businesses,)) from
27 investments ((or the use of money as such, and also));

28 (b) Amounts derived as dividends or distributions from capital
29 account by a parent from its subsidiary ((corporations)) entities; and

30 (c) Amounts derived from interest on loans between subsidiary
31 entities and a parent entity or between subsidiaries of a common parent
32 entity, but only if the total investment and loan income is less than
33 five percent of gross receipts of the business annually.

34 (2) The following are not deductible under subsection (1)(a) of
35 this section:

1 (a) Amounts received from loans, except as provided in subsection
2 (1)(c) of this section, or the extension of credit to another,
3 revolving credit arrangements, installment sales, the acceptance of
4 payment over time for goods or services, or any of the foregoing that
5 have been transferred by the originator of the same to an affiliate of
6 the transferor; or

7 (b) Amounts received by a banking, lending, or security business.

8 (3) The definitions in this subsection apply only to this section.

9 (a) "Banking business" means a person engaging in business as a
10 national or state-chartered bank, a mutual savings bank, a savings and
11 loan association, a trust company, an alien bank, a foreign bank, a
12 credit union, a stock savings bank, or a similar entity that is
13 chartered under Title 30, 31, 32, or 33 RCW, or organized under Title
14 12 U.S.C.

15 (b) "Lending business" means a person engaged in the business of
16 making secured or unsecured loans of money, or extending credit, and
17 (i) more than one-half of the person's gross income is earned from such
18 activities and (ii) more than one-half of the person's total
19 expenditures are incurred in support of such activities.

20 (c) The terms "loan" and "extension of credit" do not include
21 ownership of or trading in publicly traded debt instruments, or
22 substantially equivalent instruments offered in a private placement.

23 (d) "Security business" means a person, other than an issuer, who
24 is engaged in the business of effecting transactions in securities as
25 a broker, dealer, or broker-dealer, as those terms are defined in the
26 securities act of Washington, chapter 21.20 RCW, or the federal
27 securities act of 1933. "Security business" does not include any
28 company excluded from the definition of broker or dealer under the
29 federal investment company act of 1940 or any entity that is not an
30 investment company by reason of sections 3(c)(1) and 3(c)(3) through
31 3(c)(14) thereof.

32 NEW SECTION. Sec. 3. This act takes effect July 1, 2002."

1 **HB 2641** - S AMD

2 By Senator

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4 On page 1, line 3 of the title, after "tax;" strike the remainder
5 of the title and insert "amending RCW 82.04.4281; creating a new
6 section; and providing an effective date."

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