

House File 648 - Introduced

HOUSE FILE 648
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 213)

A BILL FOR

1 An Act providing for the expungement of information regarding
2 investment advisers and investment adviser representatives
3 authorized to do business in this state.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 502.511 Investment advisers and
2 investment adviser representatives — expungement of certain
3 reported information.

4 1. An investment adviser authorized to do business in this
5 state under this chapter, including as provided in section
6 502.403, or an investment adviser representative authorized
7 to do business in this state under this chapter, including as
8 provided in section 502.404, may petition the district court
9 sitting in equity to expunge information in a record controlled
10 by the financial industry regulatory authority.

11 2. The commissioner of insurance shall be the respondent
12 in the proceeding. If the record described in subsection 1
13 includes confidential information that was part of a judicially
14 enforceable arbitration decision, the party to the arbitration
15 proceeding who reported the information to the financial
16 industry regulatory authority shall also be a respondent in the
17 proceeding.

18 3. The district court may grant relief by ordering the
19 expungement of the information in the record described in
20 subsection 1, if all of the following apply:

21 a. The information makes an allegation about the investment
22 adviser or investment adviser representative.

23 b. The information has been publicly disclosed.

24 c. Any of the following apply:

25 (1) The petitioner was not involved in the event that
26 resulted in the creation of the record.

27 (2) The information in the record is erroneous or impossible
28 to be true.

29 (3) The information in the record is defamatory.

30 d. A decision in an administrative, judicial, or arbitration
31 proceeding found that the petitioner did not act in a manner
32 described by the record.

33 e. The court determines that equitable principles require
34 that such relief be granted.

35 4. If a court grants relief under this section, the

1 information in the record and any copies of the record shall
2 be destroyed.

3 5. Notwithstanding section 614.1, a petition may be filed
4 and relief granted as provided in this section at any time.

5 EXPLANATION

6 The inclusion of this explanation does not constitute agreement with
7 the explanation's substance by the members of the general assembly.

8 This bill provides that a person who is an investment
9 adviser, or an investment adviser representative, authorized
10 to do business in this state under Iowa's blue sky law,
11 including by satisfying certain registration requirements under
12 Code section 502.403 or 502.404, may petition the district
13 court sitting in equity for relief in the form of ordering
14 the expungement of information in a record controlled by
15 the financial industry regulatory authority (FINRA). The
16 respondents in the case must include the commissioner of
17 insurance and any party to a judicially enforceable arbitration
18 proceeding who reported the information to FINRA. The district
19 court may grant the relief by ordering the expungement of
20 the information under certain conditions, including: the
21 petitioner was not involved in the event that resulted in
22 the creation of the record; the information is erroneous,
23 impossible to be true, or defamatory; a decision in an
24 administrative, judicial, or arbitration proceeding found
25 that the petitioner was not liable for acting in a manner
26 described in the record; or the court determines that equitable
27 principles require such relief. The statute of limitations or
28 the doctrine of laches does not apply.