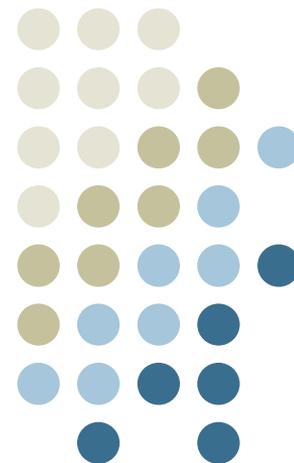


# Indiana Recorders Association 2018 Conference

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# Quick Internet Survey



- Googled “account opening” and “sole proprietor”
- Not a single one would open an account for a sole proprietor without a Certificate of Assumed Business Name from a County Recorder

# Why are banks so insistent on having the Certificate of Assumed Business Name?

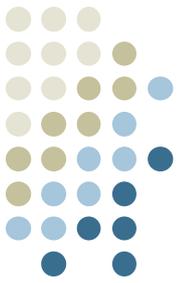


- The practical answer:
  - Banks need to know who they are entering into a transaction with.
  - Unlike a corporation, limited liability company and certain types of partnerships, there is no other source of proof.
  - The only registration required for a sole proprietorship is with the office of the Recorder of each County in which a place of business or an office of the individual is situated pursuant to Ind. Code 23-0.5-3-4(a).

# Why are banks so insistent on having the Certificate of Assumed Business Name?



- The less practical and less obvious answer:
  - It is a matter of federal banking law and part of **the fight against terrorism.**
  - Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2001
    - Signed into law on October 26, 2001 by President George W. Bush



# USA PATRIOT Act

- Section 326 of the USA PATRIOT Act and requires each bank to implement a written Customer Information Program (CIP) that is appropriate for its size and type of business.
- A CIP is intended to enable the bank to form a reasonable belief that it knows the true identity of each customer.

# Customer Information Program (CIP)



- Under the regulations implementing the Act, a CIP must include:
  - **Account opening procedures** that specify the identifying information that will be obtained from each customer.
  - **Reasonable and practical risk-based procedures** for verifying the identity of each customer.
    - A bank need not establish the accuracy of every element of identifying information obtained, but it must verify enough information to form a reasonable belief that it knows the true identity of the customer.

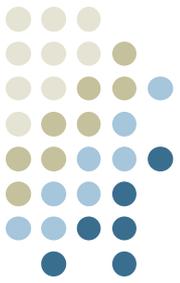
# Customer Information Program (CIP)



- The procedures may involve verification through:
  - Documents
    - Unexpired government ID
    - Certified Articles of Incorporation
  - Nondocumentary Methods
    - Contacting a customer
    - Comparison of information provided to your credit report
  - Additional Verification
    - Where documents and nondocumentary methods are unavailable



# FDIC FAQs on the Final CIP Rule



**5. How should a bank verify the identity of a sole proprietorship that opens a new account...when there are no documents or non-documentary methods that will establish the identity of the sole proprietorship?**

In some states, sole proprietorships are required to file “fictitious” or “assumed name certificates.” Banks may choose to use these certificates as a means to verify the identity of a sole proprietorship, if appropriate...

# What Needs to be on the Certificate?



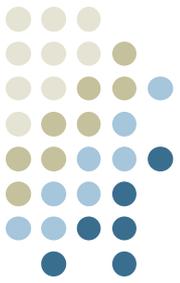
1. Owner Name(s)
2. Name of business – Sole Proprietor & General Partnership
3. Business address
4. List of principals with addresses
5. Signatures with names typed or printed below or next to each name
6. Signatures acknowledged or notarized
7. Prepared by statement
8. Social Security redaction statement

Indiana Recording Manual and Desk Reference



SmithAmundsen

# How do Banks and Recorders Work Together?



- Development of a uniform form?