

### **“Notarial Acts” Under SB17-132**

“Notarial acts” is defined to include taking an acknowledgment, administering an oath or affirmation, taking a deposition or other sworn testimony, taking a verification on oath or affirmation, witnessing or attesting a signature, and noting a protest of a negotiable instrument. § 24-21-502(6).

A personal appearance is required if a notarial act relates to a statement made in or a signature executed on a record. § 24-21-506. That includes the following notarial acts:

- Acknowledgment (§§ 24-21-502(1), 505(1))
  - A declaration by an individual before a notary that the individual has signed a record for the purpose stated in the record. The declaration must be made in front of the notary.
  - The notary public must also:
    - Determine that the individual has the identity claimed; and
    - Determine that the signature on the record is the signature of the individual.
  - May be signed before appearing, so long as the individual acknowledges the signature to the notary.
- Verification on Oath or Affirmation (§§ 24-21-502(16), 505(2))
  - A declaration by an individual before a notary that a statement in a record is true. The declaration must be made in front of the notary.
  - The notary public must also:
    - Determine that the individual has the identity claimed; and
    - Determine that the signature on the record is the signature of the individual.
  - Must be signed in front of the notary.
- Witnessing a Signature (§ 24-21-505(3))
  - A notary public who witnesses a signature must:
    - Determine that the individual appearing before the notary and signing the record has the identity claimed.
  - Must be signed in front of the notary.

### **Validity of Notarial Acts Under SB17-132**

The signature and title of a notarial offer is prima facie evidence that the signature is genuine and that the individual holds the designated title. § 24-21-510(2). For a notary public, the signature and title are sufficient to conclusively establish their authority to perform a notarial act. § 24-21-510(3).

The failure of a notary public to perform a duty or meet a requirement specific in RULONA does not invalidate a notarial act. The validity of a notarial act under RULONA does not prevent an aggrieved person from seeking to invalidate the record or transaction or seeking other remedies based on other laws. § 24-21-526.