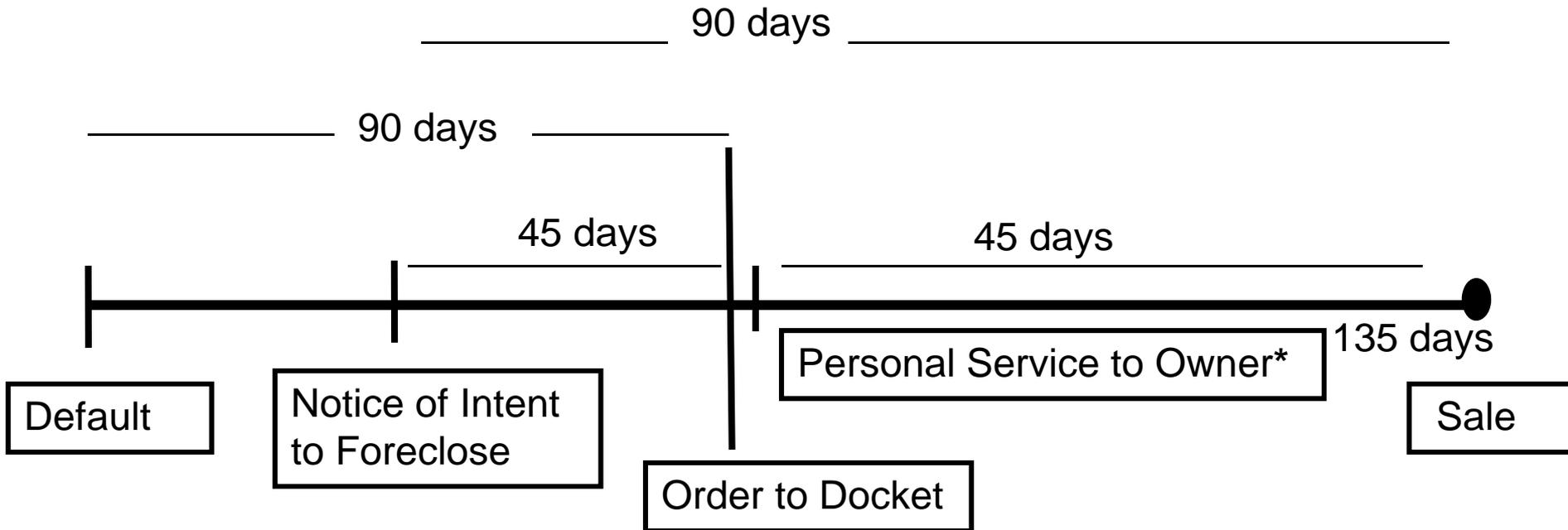


Foreclosure Process in MD

- Deed of Trust – ...”operates to pass all the title which the borrower had in the property at the time of the recording of the ...deed of trust”
- Default
- Notice of intent to foreclose
- Foreclosure filing: Order to Docket
- Personal service to record owner
- Foreclosure sale
- Ratification of Sale
- Auditor’s accounting

Maryland Foreclosure Process Timeline

Md. Code Real Property Article § 7-105 and Md. Rules 14-201 et seq.



*Owner's Right to Cure until 1 business day before sale

Timeline for Foreclosure Sale

- Before sale occurs:
 - Personal service of foreclosure documents (plus 45 days)
 - Advertisement of sale in paper for 3 weeks prior to sale

Timeline for Ratification and Audit

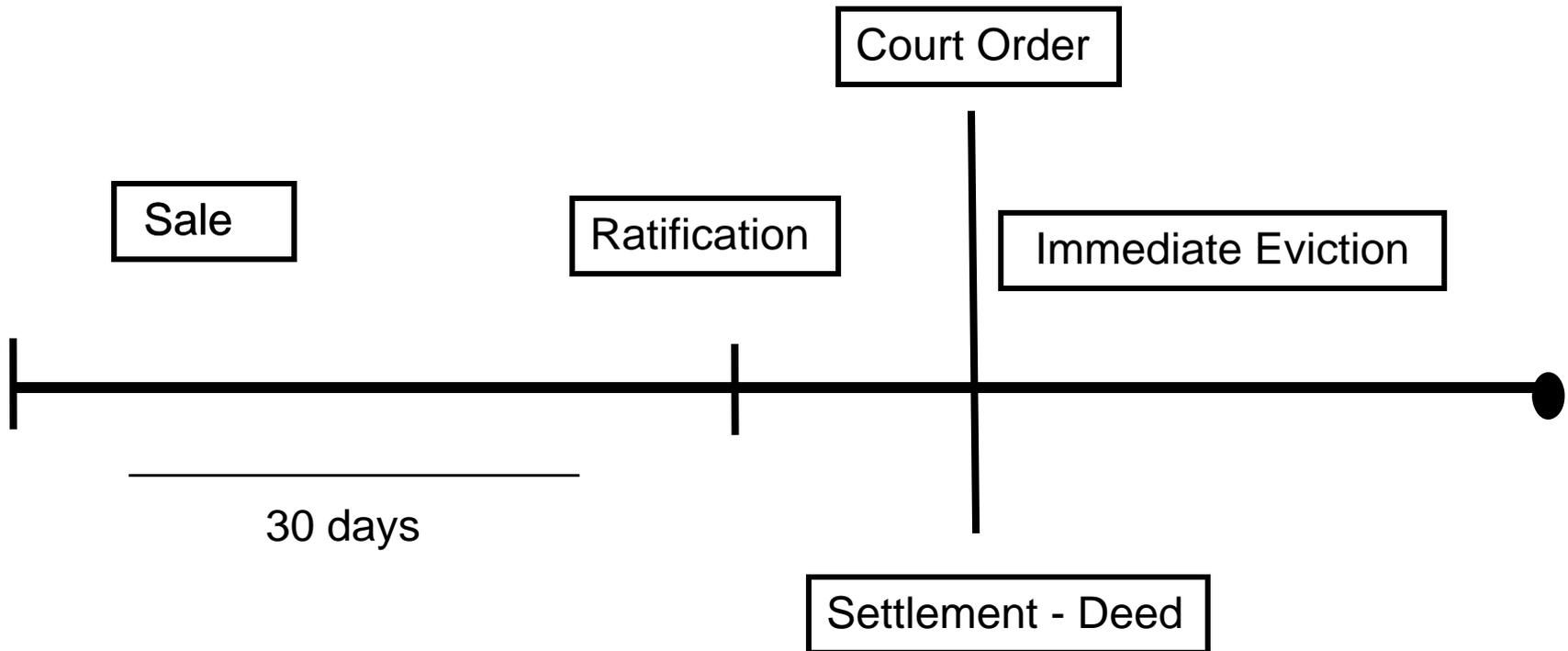
- Before sale ratified
 - 30 days from filing of sale documents to submit exceptions to the sale
- Before audit approved
 - 10 days after accounting is filed to submit exceptions to audit

MARYLAND FORECLOSURE STATUTE

- REAL PROPERTY § 7-105 ET SEQ.
- NOTICE TO OCCUPANTS § 7-105.9
 - When Order to Docket is filed
 - When Sale is “impending” : 30/10 days
 - When purchaser takes possession, but before eviction:
 - Contact information required

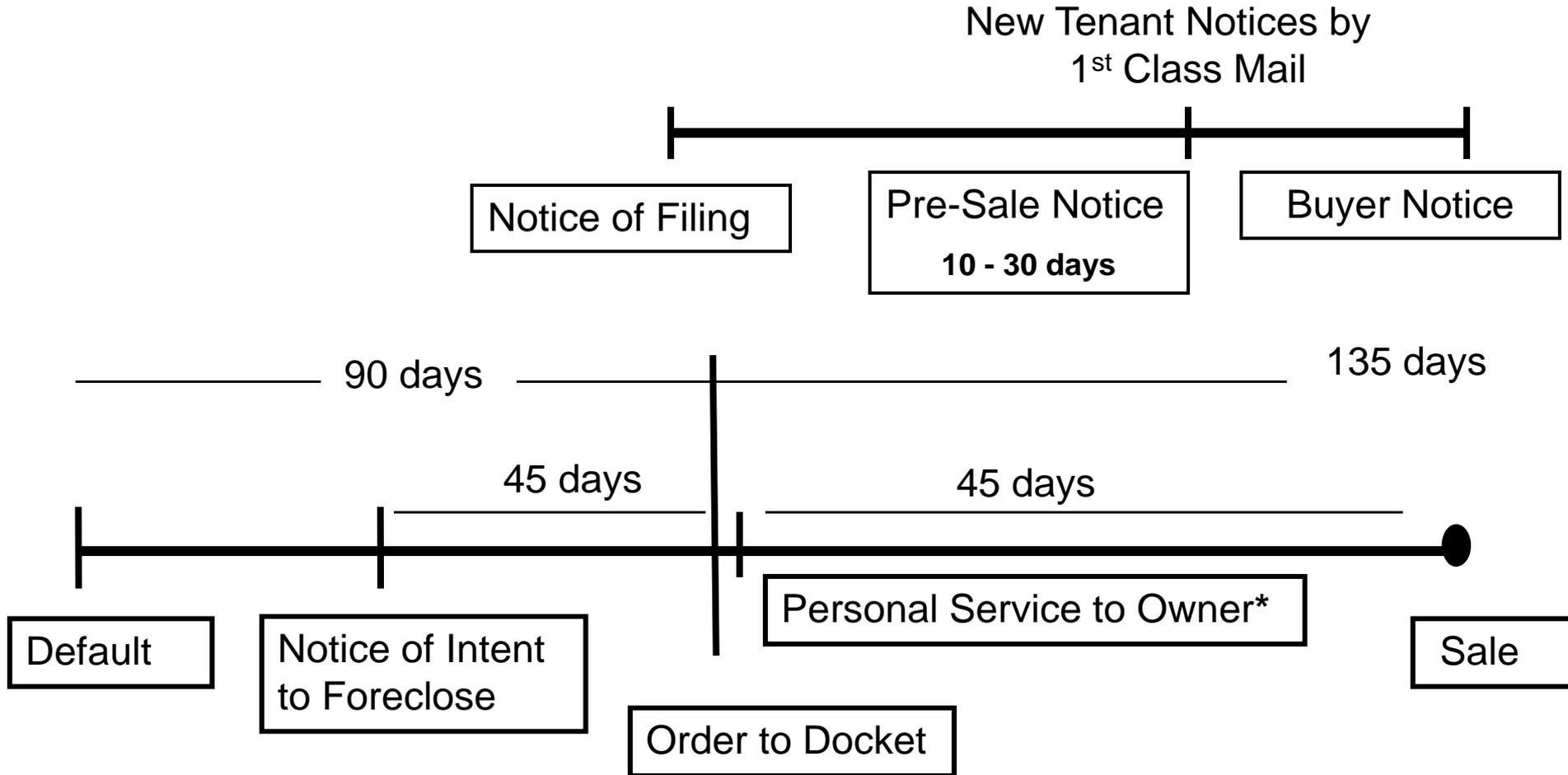
Purchaser's Right of Possession

Legacy Funding, LLC v. Cohn, et al., 396 Md. 511, 914 A.2d 760 (2007)



Maryland Foreclosure Process Timeline

Md. Code Real Property Article § 7-105 and Md. Rules 14-201 et seq.



*Owner's Right to Cure until 1 business day before sale

NEW FEDERAL PROTECTIONS FOR TENANTS IN FORECLOSURE



Tenant's rights in foreclosed property – before federal law

- Tenant's lease with landlord ceases when possessory right is transferred
- Unless lease/occupancy right predates loan being foreclosed.

Federal Protecting Tenants at Foreclosure Act of 2009

- Terms of lease survive foreclosure
 - Exception if purchaser will occupy property
 - Subject to 90 day notice
- Adds 90 days to at-will lease
- Must be arms-length tenancy
- Must pre-date notice of foreclosure
- Includes subsidized housing

New Maryland Rule

RULE 14-102 JUDGMENT AWARDING POSSESSION

(a) Motion. If the purchaser of an interest in real property at a sale conducted pursuant to the Rules in this Title is entitled to possession and the person in actual possession fails or refuses to deliver possession, the purchaser or successor in interest who claims the right of immediate possession may file a motion for judgment awarding possession of the property. The motion shall state the legal and factual basis for the movant's claim of entitlement to possession. If the movant's right to possession arises from a foreclosure sale of a dwelling or residential property, the motion shall include averments, made to the best of the movant's knowledge, information, and belief, establishing either that the person in possession is not a bona fide tenant having rights under the **Federal Protecting Tenants at Foreclosure Act of 2009 (P.L. 111-22)** or, if the person in possession is such a bona fide tenant, that the notice required under that Act has been given and that the tenant has no further right to possession. If a notice pursuant to the Federal Act is required, the movant shall state the date the notice was given and attach a copy of the notice as an exhibit to the motion.

Committee note: The **Federal Protecting Tenants at Foreclosure Act of 2009 (P.L. 111-22)** requires that a purchaser at a foreclosure sale of a dwelling or residential property give a 90-day notice to a "bona fide tenant" before any eviction and precludes the eviction if the tenant has a "bona fide lease or tenancy," unless the new owner of the property will occupy the property as a primary residence.

Tenants' Continuing Right of Possession

