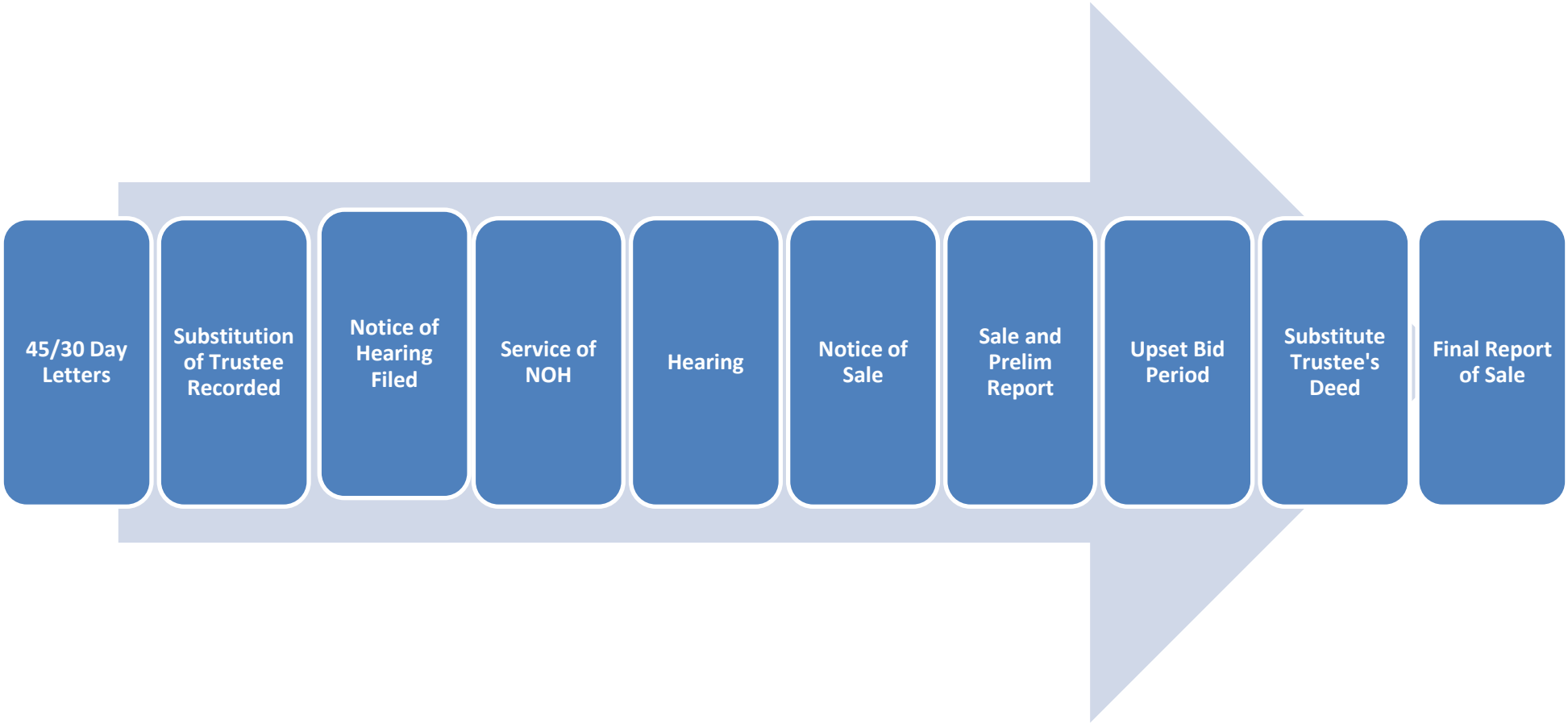
SOG Statutory Reference Guide

Foreclosure by Power of Sale

G.S. Chapter 45



This chart provides the statutory citation for many of the key steps in a power of sale foreclosure proceeding.

1. 45 Day Letter	G.S. 45-102 (contents of notice) G.S. 45-103 (filing notice with AOC) G.S. 45-104(c) (servicer filing fee paid to State Home Foreclosure Prevention Trust Fund)
2. 30 Day Letter	G.S. 45-21.16(c)(5a)
3. Substitution of Trustee	G.S. 45-10 (generally + who may serve as trustee) G.S. 45-15 (recording the ST gives constructive notice to all persons) G.S. 45-17 (noteholder may substitute a trustee as often as justifiable)
4. Notice of Hearing	G.S. 45-21.16(c) (contents of NOH) G.S. 45-21.16(c2) (NOH must include certification that 45-day letter provided)
5. Service of Notice of Hearing	G.S. 45-21.16(a) (service deadlines and timeline) G.S. 45-21.16(b) (who must be served)
6. Non-Foreclosure Resolution	G.S. 45-21.16C (clerk duty to inquire regarding efforts to avoid foreclosure of primary residences)
7. Servicer Guidelines	G.S. 45-91 (assessment of fees) G.S. 45-93 (borrower requests for information)
8. Hearing	G.S. 45-21.12A (sale barred during military service) G.S. 127B-25 *et. seq.* (North Carolina Servicemembers Civil Relief Act) 50 U.S.C. 3901 *et. seq*. (Servicemembers Civil Relief Act)

	G.S. 45-21.16(d) (home loan, default, valid debt/holder, right to foreclose, notice) G.S. 45-21.16(d1) and (e) (judicial act of clerk; appeal and bond) G.S. 45-21.16(f) (waiver of notice and hearing)
9. Notice of Sale	G.S. 45-21.16A (contents of NOS) G.S. 45-21.17 (posting and publishing of NOS) G.S. 45-21.17A (requests for copies of NOS by junior lienholders and third parties)
10. Sale	G.S. 45.21.4 (place of sale) G.S. 45-21.7 (sale of separate tracts) G.S. 45-21.8-9 (sale in whole or in parts) G.S. 45-21.10 (deposit at sale) G.S. 45-21.21 (postponement of sale) G.S. 45-21.22 (restarting sale after bankruptcy stay lifted or order enjoining dissolved) G.S. 45-21.23 (time of sale) G.S. 45-21.24 (continuance of sale)
11. Preliminary Report of Sale	G.S. 45-21.26 (timing and contents) G.S. 45-21.14 (clerk's authority to compel report using contempt)
12. Upset Bids	G.S. 45-21.27 (timeline, amount, bond) G.S. 45-21.29A (upon expiration of upset bid period parties rights become fixed automatically) G.S. 45-21.30 (failure to comply with bid)
13. Surplus Funds	G.S. 45-21.31 (disposition of proceeds of sale; surplus funds) G.S. 45-21.32 (special proceeding to determine ownership of surplus funds before the clerk)

14. Final Report	G.S. 45-21.33 (timing and contents) G.S. 45-21.14 (clerk's authority to compel report using contempt) G.S. 45-21.15 (trustee's fees)
15. Order for Possession	G.S. 45-21.29
16. Enjoining Foreclosure Sale on Equitable Grounds (Superior Court)	G.S. 45-21.34 G.S. 45-21.35