§ 1196. Determination of existence and amount of surplus. 1. (a) Within forty-five days after the sale of tax-foreclosed property, the enforcing officer shall determine whether a surplus is attributable to such sale and if so, the amount thereof. Subject to the provisions of subdivision two of this section, such determination shall be made by ascertaining the sum of the total amount of taxes due plus interest, penalties and other charges as defined by section eleven hundred two of this article, and subtracting such sum from whichever of the following is applicable:

(i) where the sale was a public sale, the amount to be so subtracted shall be the amount paid for the property;

(ii) where the sale was not a public sale, the amount to be so subtracted shall be either (A) the full value of the property as shown on the most recent tax roll, (B) if available, an appraisal prepared by a licensed New York state appraiser that establishes the full value of the property as of the date of the transfer of title, or (C) the full value of the property as of the date of the transfer of title as determined by such other valuation method as the enforcing officer reasonably determines will result in just compensation to the former owner and other parties whose interests were extinguished by the foreclosure.

(b) For purposes of this subdivision, where the enforcing officer has been notified that the tax district intends to retain tax-foreclosed property for a public use, the property shall be deemed to have been sold on the date that the enforcing officer was so notified, and the enforcing officer shall determine the existence and amount of a surplus relative to such property in the manner provided by subparagraph (ii) of paragraph (a) of this subdivision.

2. Notwithstanding the provisions of subdivision one of this section, when a tax district has sold or conveyed tax-foreclosed property to a land bank, a housing development agency or another public entity, and such sale or conveyance was not the result of a public sale, or when a tax district has determined to retain tax-foreclosed property for a public use, no surplus shall be payable if all of the following conditions are satisfied:

(a) prior to such sale, conveyance or determination, the property had

been offered for sale at two separate public auctions conducted at least three months apart from one another,

(b) both auctions had been conducted in full compliance with the provisions of section two hundred thirty-one of the real property actions and proceedings law,

(c) the minimum acceptable bid at each auction had been set at an amount no greater than the sum of the taxes due plus interest, penalties and other charges, and

(d) no qualifying bids were received for the property at either auction.

3. (a) If the enforcing officer determines that no surplus is attributable to the sale, such enforcing officer shall submit a report to the court describing the circumstances of the sale, stating that no surplus was attributable to the sale and demonstrating how the enforcing officer reached that conclusion.

(b) If the enforcing officer determines that a surplus is attributable to the sale, such enforcing officer shall submit a report to the court describing the circumstances of the sale, stating that a surplus was attributable to the sale, and demonstrating how the amount of the surplus was determined. Such surplus shall be paid to the court therewith. Within ten days of submitting such report, the enforcing officer shall notify the former property owner that a surplus was attributable to the sale of such property, that such surplus has been paid into court, and that the court will notify the interested parties of the procedure to be followed in order to make a claim for a share of the surplus.

(c) Where the enforcing officer's determination of surplus is based upon such enforcing officer's estimate of the property's value, the enforcing officer's report to the court shall set forth an explanation of how this estimate was made, including the evidence upon which it was based.

4. Upon approval by the court of the enforcing officer's report, the tax district shall have no further responsibilities in relation to the parcel or any surplus attributable thereto, except to the extent the court directs otherwise pursuant to section eleven hundred ninety-seven

of this title.