§ 534-x. Payment of assessment. 1. Every person subject to the payment of any assessment under the provisions of section five hundred thirty-four-w of this article shall file on or before the fifteenth day of the first month of each calendar quarter-year a separate return, together with the payment of the assessment due, for the preceding calendar quarter-year during which any payroll payments were made to longshore workers, pier superintendents, hiring agents or security officers for work performed as such within the port of New York district in this state. Returns covering the amount of assessment payable shall be filed with the commission on forms to be furnished for such purpose and shall contain such data, information or matter as the commission may require to be included therein. The commission may grant a reasonable extension of time for filing returns, or for the payment of assessment, whenever good cause exists. Every return shall have annexed thereto a certification to the effect that the statements contained therein are true.

2. Every person subject to the payment of assessment hereunder shall keep an accurate record of that person's employment of longshore workers, pier superintendents, hiring agents or security officers, which shall show the amount of compensation paid and such other information as the commission may require. Such records shall be preserved for a period of three years and be open for inspection at reasonable times. The commission may consent to the destruction of any such records at any time after said period or may require that they be kept longer, but not in excess of six years.

3. (a) The commission shall audit and determine the amount of assessment due from the return filed and such other information as is available to it. Whenever a deficiency in payment of the assessment is determined the commission shall give notice of any such determination to the person liable therefor. Such determination shall finally and conclusively fix the amount due, unless the person against whom it is assessed shall, within thirty days after the giving of notice of such determination, apply in writing to the commission for a hearing, or unless the commission on its own motion shall reduce the same. After such hearing, the commission shall give notice of its decision to the

person liable therefor. A determination of the commission under this section shall be subject to judicial review, if application for such review is made within thirty days after the giving of notice of such decision. Any determination under this section shall be made within five years from the time the return was filed and if no return was filed such determination may be made at any time.

(b) Any notice authorized or required under this section may be given by mailing the same to the person for whom it is intended at the last address given by that person to the commission, or in the last return filed by that person with the commission under this section, or, if no return has been filed then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of same by the person to whom addressed. Any period of time, which is determined according to the provisions of this section, for the giving of notice shall commence to run from the date of mailing of such notice.

4. Whenever any person shall fail to pay, within the time limited herein, any assessment which the person is required to pay to the commission under the provisions of this section the commission may enforce payment of such fee by civil action for the amount of such assessment with interest and penalties.

5. The employment by a nonresident of a longshore worker, or a licensed pier superintendent, hiring agent or security officer in this state or the designation by a nonresident of a longshore worker, pier superintendent, hiring agent or security officer to perform work in this state shall be deemed equivalent to an appointment by such nonresident of the secretary of state to be the nonresident's true and lawful attorney upon whom may be served the process in any action or proceeding against the nonresident growing out of any liability for assessments, penalties or interest, and a consent that any such process against the nonresident which is so served shall be of the same legal force and validity as if served personally within the state and within the territorial jurisdiction of the court from which the process issues. Service of process within this state shall be made by either:

(a) personally delivering to and leaving with the secretary of state duplicate copies thereof at the office of the department of state, in

which event the secretary of state shall forthwith send by registered mail one of such copies to the person at the last address designated by the person to the commission for any purpose under this section or in the last return filed by the person under this section with the commission or as shown on the records of the commission, or if no return has been filed, at the person's last known office address within or outside of the state; or

(b) personally delivering to and leaving with the secretary of state a copy thereof at the office of the department of state and by delivering a copy thereof to the person, personally outside of the state. Proof of such personal service outside of the state shall be filed with the clerk of the court in which the process is pending within thirty days after such service and such service shall be complete ten days after proof thereof is filed.

6. Whenever the commission shall determine that any moneys received as assessments were paid in error, it may cause the same to be refunded, provided an application therefor is filed with the commission within two years from the time the erroneous payment was made.

7. In addition to any other powers authorized hereunder, the commission shall have power to promulgate reasonable rules and regulations to effectuate the purposes of this section.

8. Any person who shall willfully fail to pay any assessment due hereunder, shall be assessed interest at a rate of one percent per month on the amount due and unpaid and penalties of five percent of the amount due for each thirty days or part thereof that the assessment remains unpaid. The commission, may, for good cause shown, abate all or part of such penalty.

9. Any person who shall willfully furnish false or fraudulent information or shall willfully fail to furnish pertinent information, as required, with respect to the amount of assessment due, shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars, or imprisonment for not more than three hundred sixty-four days, or both.

10. All funds of the commission received as payment of any assessment or penalty under this section shall be deposited with the comptroller. The comptroller may require that all such deposits be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposits, and all banks and trust companies are authorized to give such security for such deposits.

11. The commission shall reimburse the state for any funds advanced to the commission exclusive of sums appropriated pursuant to section five hundred thirty-four-w of this article.