STATE OF NEW YORK

1098

2021-2022 Regular Sessions

IN ASSEMBLY

January 7, 2021

Introduced by M. of A. BRONSON, PERRY, REYES -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to allowing certain claimants to be reclassified to permanent total disability or total industrial disability due to extreme hardship

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 3 of section 35 of the workers' compensation law, as amended by section 2 of subpart A of part NNN of chapter 59 of the laws of 2017, is amended to read as follows:

3. Extreme hardship redetermination. In cases where the loss of wage-earning capacity is greater than [~~seventy five~~] fifty percent, a claimant may request[~~, within the year prior to the scheduled exhaustion of indemnity benefits under paragraph w of subdivision three of section fifteen of this article,~~] that the board reclassify the claimant to permanent total disability or total industrial disability due to factors reflecting extreme hardship. For the purposes of this subdivision, "extreme hardship" shall mean: (a) the injured worker's income from social security disability benefits and disability pension, if applicable, would be less than fifty percent of his or her average weekly wage upon termination of permanent partial disability benefits; (b) the injured worker will be unable to meet expenses for himself or herself and any dependents upon termination of permanent partial disability benefits; (c) additional medical, functional, or vocational factors arising subsequent to the classification of permanent partial disability have further eroded the injured worker's wage earning capacity; or (d) the injured worker's income would be below the federal poverty guidelines upon termination of permanent partial disability benefits.

§ 2. This act shall take effect immediately.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD04928-01-1