

AMENDED IN ASSEMBLY MAY 10, 2001

AMENDED IN ASSEMBLY APRIL 25, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 539**

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**Introduced by Assembly Member Maddox**

February 21, 2001

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An act to amend Section 914 of the Family Code, relating to marital liability.

LEGISLATIVE COUNSEL'S DIGEST

AB 539, as amended, Maddox. Marital: liability: spousal debts.

Existing law provides that a married person is personally liable for debts incurred by the person's spouse for necessities of life, as specified, and provides that the married person's separate property may be applied to the satisfaction of these debts.

*Existing law sets forth various statutes of limitations for the commencement of civil actions.*

This bill would specify that an action based upon the marital liability of a deceased spouse must be commenced within a ~~3-year~~ one-year period, except as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 914 of the Family Code is amended to  
2 read:

1 914. (a) Notwithstanding Section 913, a married person is  
2 personally liable for the following debts incurred by the person's  
3 spouse during marriage:

4 (1) A debt incurred for necessities of life of the person's spouse  
5 while the spouses are living together.

6 (2) Except as provided in Section 4302, a debt incurred for  
7 common necessities of life of the person's spouse while the  
8 spouses are living separately.

9 (b) The separate property of a married person may be applied  
10 to the satisfaction of a debt for which the person is personally liable  
11 pursuant to this section. If separate property is so applied at a time  
12 when nonexempt property in the community estate or separate  
13 property of the person's spouse is available but is not applied to the  
14 satisfaction of the debt, the married person is entitled to  
15 reimbursement to the extent such property was available.

16 ~~(e) Section 338 of the Code of Civil Procedure applies to any~~  
17 ~~liability under this section.~~

18 ~~(d) Notwithstanding subdivision (e), the statute of limitations~~

19 ~~(c) (1) Except as provided in paragraph (2), the statute of~~  
20 ~~limitations set forth in Section 366.2 of the Code of Civil~~  
21 ~~Procedure shall apply if the spouse for whom the married person~~  
22 ~~is personally liable dies and an action is brought against the~~  
23 ~~surviving spouse under this section, unless.~~

24 (2) *If the surviving spouse had actual knowledge of the debt*  
25 *prior to expiration of the period set forth in Section 366.2 and the*  
26 *personal representative of the deceased spouse's estate failed to*  
27 *provide the creditor asserting the claim under this section with a*  
28 *timely written notice of the probate administration of the estate in*  
29 *the manner provided for pursuant to Section 9050 of the Probate*  
30 *Code, the statute of limitations set forth in Section 337 or 339, as*  
31 *applicable, shall apply.*

