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SB-1431 Obligations: release. (2017-2018)

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Senate Bill No. 1431

CHAPTER 157

An act to amend Sections 1541 and 1542 of the Civil Code, relating to obligations.

[Approved by Governor July 20, 2018. Filed with Secretary of State July 20, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1431, Morrell. Obligations: release.

Under existing law, an obligation is a legal duty to do or not to do a certain thing and an obligation may be extinguished in various ways. An obligation is extinguished if a creditor releases a debtor from the obligation either upon new consideration or in writing, with or without new consideration. Under existing law, a general release from an obligation does not apply to claims that the creditor does not know or suspect to exist in his or her favor, as specified, and that would have materially affected his or her settlement with the debtor.

This bill would clarify that the terms "creditor" and "debtor" as used in the above provisions include "releasing party" and "released party," respectively. This bill would state that its changes are declaratory of existing law.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1541 of the Civil Code is amended to read:

1541. An obligation is extinguished by a release therefrom given to the debtor or the released party by the creditor or releasing party, upon a new consideration, or in writing, with or without new consideration.

SEC. 2. Section 1542 of the Civil Code is amended to read:

1542. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

SEC. 3. The amendments to Sections 1541 and 1542 of the Civil Code made by this act are declaratory of existing law.