508A.77 PARTIES DEFENDANT; JUDGMENT; EXECUTION.

If an action is brought to recover any loss or damage occasioned solely by the registration of the land, or solely by the registration of any other person as the owner thereof, or if the action be brought for the recovery of any loss or damage occasioned solely by the omission, mistake or misfeasance of the registrar or the registrar's deputy, or of any examiner or of any court administrator, or of a deputy of the court administrator or examiner, in the performance of their respective duties, the commissioner of management and budget, in the commissioner's official capacity, shall be the sole defendant. If the action is brought to recover for any loss or damage occasioned either wholly, or in part, by the fraud or wrongful act of some person other than the officers herein named, or to recover for any loss or damage caused jointly by the fraud or wrongful act, and by the omission, mistake or misfeasance of the officers above named, or any of them, and of some other person, the commissioner of management and budget, in the commissioner's official capacity, and the other person shall be joined as defendants in it. In any action where there are defendants other than the commissioner of management and budget, no execution shall issue against the commissioner until execution against all other defendants against whom judgment has been recovered has been returned unsatisfied, either in whole or in part. An officer returning the execution shall certify on it that the amount still due upon the execution cannot be collected from them. The court, being satisfied as to the truth of the return, shall then order the commissioner of management and budget to pay the amount due upon the execution out of the general fund. The attorney general or, at the request of either the attorney general or the board of county commissioners of the county in which the land or a major part of it lies, the county attorney of that county shall defend the commissioner of management and budget in all these actions.

History: *1982 c 396 s 68; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1Sp1989 c 1 art 11 s 11; 2003 c 112 art 2 s 50; 2009 c 101 art 2 s 109*