§ 1416. Executor failing to qualify or renounce; how excluded

1. Upon the application of a fiduciary, a person interested or a creditor, the court shall direct an executor named in a will to qualify within a time specified by the court or in default of so doing to be deemed to have renounced the appointment in any case where

(a) a person named as executor in a will does not qualify or renounce within 15 days after probate thereof or

(b) a person chosen by virtue of a power in a will does not qualify or renounce within 15 days after the filing of the instrument designating him or

(c) objections are filed to the grant of letters to a person named as executor in a will or chosen by virtue of a power therein contained and such person does not qualify or renounce within 5 days after the objections have been determined in his favor or, in a case specified in 710, within 5 days after an objection to letters has been established.

2. Where it appears by affidavit or other written proof to the satisfaction of the court that such an order cannot with due diligence be served personally within the state upon the person therein named the court may prescribe the manner in which it must be served.

3. If the person so designated executor does not qualify within the time fixed or within such further time as the court may allow for that purpose an order shall be made declaring that he has renounced his appointment as executor. Such an order may be revoked by the court and letters testamentary issued to the person so failing to renounce or qualify upon his application in a case where he might have retracted an express renunciation as prescribed in the succeeding section.