§ 1716. Application for ancillary letters to foreign guardians

1. Where an infant is domiciled within a state of the United States other than this state, or the District of Columbia, the Commonwealth of Puerto Rico or a territory or possession of the United States and is entitled to property within the state or to maintain an action or special proceeding in any court thereof, a guardian of his property to whom letters have been issued by a court of competent jurisdiction within the foreign state, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States where the infant is domiciled, and has there given security in at least the value of the personal property and of the rents and profits of the real property of the infant, may present to the surrogate's court having jurisdiction, a petition showing the facts and particularly whether or not there are any debts due or to become due from the infant to a domiciliary and that the security given is sufficient to cover the property sought to be obtained through such letters and that the court has jurisdiction of the infant and praying for ancillary letters of guardianship accordingly.

2. The petition must be accompanied with exemplified copies of the records and other papers showing that he has been so appointed and has given the security required in this section, which must be authenticated in the manner prescribed by the CPLR. The petition and authenticated records and papers shall be conclusive evidence of the facts therein set forth in any court of this state.

3. Any corporate banking institution in any state, the District of Columbia, the Commonwealth of Puerto Rico or a territory or possession of the United States not entitled of right under section 131 of the banking law to receive such letters may nevertheless be authorized to receive them upon giving the bond which the court may require.

4. Where a non-domiciliary infant resides in a foreign country and is entitled to property within the state or to maintain an action or special proceeding in any court thereof respecting such property, a guardian of his property authorized to act as such within the domicile

of the infant may apply to the surrogate's court of the county where the property or any part thereof is situate, for ancillary letters of guardianship on the estate of the infant and the person so authorized must present a petition showing the facts and the additional allegations regarding debts and security required by subdivision 1 and praying for ancillary letters. The petition must be accompanied with the authenticated copies of the records and other papers showing the appointment of the petitioner or where the foreign guardian has not been appointed by any court, with other proof of his authority to act as guardian within the foreign country and also with proof that pursuant to the laws of the foreign country he is entitled to the possession of the infant's personal estate. Authenticated copies of the records where used pursuant to this subdivision must be authenticated by the seal of the court or officer by which or by whom he was appointed or by the officer having the custody of the seal or the record thereof and the signature of a judge of such court or the signature of such officer and of the clerk of such court, if any, and must be further authenticated by the certificate under the principal seal of the department of foreign affairs or of the department of justice of such country, attested by the signature or seal of a United States consul. The petition and authenticated records and papers shall be conclusive evidence of the facts therein set forth in any court of this state.