§ 717. Suspension of powers of fiduciaries in war service

1. Whenever a fiduciary is engaged in war service, as defined in this section, such fiduciary or any person interested, may present a petition to the court having jurisdiction, praying for a decree suspending the powers of such fiduciary while he is engaged in war service and until the further order of the court and if his suspension will leave no person acting as fiduciary or leave the sole beneficiary of a trust as the only acting trustee thereof, the petition must pray for the appointment of a successor unless a successor has been named in the will or lifetime trust instrument and such successor is not engaged in war service or is not for other reasons unable or unwilling to act as a fiduciary.

2. For the purposes of this section, a fiduciary is deemed to be engaged in war service if he is

(a) a member of the military or naval forces of the United States or any of its allies or if he has been accepted for such service and is awaiting induction therein, or

(b) engaged in any work abroad in connection with a governmental agency of the United States or with the American Red Cross Society or any other body with similar objects, or

(c) interned in an enemy country or is in a foreign country or a possession, dependency or protectorate of the United States and is unable to return to this state, or

(d) a member of the merchant marine service or other similar service.

3. Where the application is made by a fiduciary engaged in war service notice shall be given to the persons and in the manner directed by the court. Where the application is made by any other person notice shall be given to the fiduciary and such other persons and in the manner directed by the court.

4. Upon filing of the petition and proof of service of the notice prescribed, the court may, notwithstanding any other provision of law, suspend the fiduciary engaged in war service from the exercise of all his powers and duties while he remains engaged in war service and until

the further order of the court. The decree may further provide that the remaining fiduciary, or if there be none, the successor named in the will or lifetime trust instrument or appointed by the court, is possessed of and may exercise all the powers and be subject to all the duties incidental to his office as fiduciary.

5. The compensation of the successor shall be limited to commissions as computed under 2307, 2308 or 2309, whichever section is applicable to the fiduciary, upon income received and disbursed, and upon principal disbursed. Commissions may be allowed also to his successor under the provisions of those sections, whichever section is applicable to the successor, if he is entitled to or required to collect the rents of and manage real property. In the event of the resignation or removal of the suspended fiduciary under any other section of this act or in the event of the death of the suspended fiduciary, the foregoing limitations on the computation of the commissions of his successor shall cease to apply and the commissions of the successor shall be computed in the same manner as any other fiduciary.

6. When the suspended fiduciary ceases to be engaged in war service, he may be reinstated as fiduciary if any of the duties of his office remain unexecuted, upon application to the court, and upon such notice as it directs. If the suspended fiduciary is reinstated the court shall remove his successor and revoke his letters and make such other order or decree as justice requires, but such removal and revocation of letters shall not bar the successor from subsequently qualifying as a fiduciary in accordance with the provisions of the will or lifetime trust instrument if for any reason thereafter it becomes necessary that a fiduciary be appointed.