§ 718. Nominated fiduciaries in war service

1. Whenever a person nominated in a will or lifetime trust instrument as executor, guardian or trustee is engaged in war service as defined in the preceding section and is unable to qualify as fiduciary because of such service, his failure to so qualify shall not be deemed a final renunciation but a temporary one which shall become final 6 months after such nominated fiduciary ceases to be engaged in war service. If the will or lifetime trust instrument does not name a co-fiduciary or successor fiduciary or if the co-fiduciary or successor fiduciary is unwilling or unable to act and the failure of the nominated fiduciary in war service to qualify leaves no person acting as fiduciary or will leave the sole beneficiary of a trust as the only active trustee thereof, any person interested may file a petition praying for the appointment of a successor to the nominated fiduciary in war service. Notice of the application shall be given to the persons and in the manner directed by the court. Within 6 months from the date the nominated fiduciary ceases to be engaged in war service, and if any of the duties of his office remain unexecuted, he may file a petition praying that he be appointed executor, guardian or trustee, as the case may be, in accordance with the terms of the will or lifetime trust instrument. Notice of the application shall be given to the persons and in the manner directed by the court. The court may grant the application and direct the issuance of letters to or appoint the petitioner jointly with the fiduciary acting or may remove or revoke the letters of the successor appointed to take the place of the nominated fiduciary or may make such other order or decree as justice requires. The removal and revocation of the letters of the original successor to the nominated fiduciary shall not bar the successor from subsequently qualifying as fiduciary if for any reason thereafter it becomes necessary that a fiduciary be appointed.

2. The commissions of a successor appointed under this section shall be computed in accordance with the provisions of 2307, 2308 or 2309, whichever section is applicable to the fiduciary, except that where the successor is removed or his letters revoked he shall not be entitled to commissions for paying or delivering the estate to the nominated

fiduciary upon his qualification.