



# STATE OF NORTH CAROLINA

**PERQUIMANS COUNTY CLERK OF SUPERIOR COURT**

**FISCAL CONTROL AUDIT**

**HERTFORD, NORTH CAROLINA**

**OFFICE OF THE STATE AUDITOR**

**LESLIE W. MERRITT, JR., CPA, CFP**

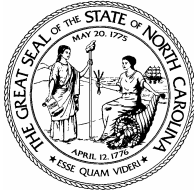
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**THE HONORABLE TODD W. TILLEY, CLERK OF SUPERIOR COURT**



STATE OF NORTH CAROLINA  
Office of the State Auditor

Leslie W. Merritt, Jr., CPA, CFP  
State Auditor

2 S. Salisbury Street  
20601 Mail Service Center  
Raleigh, NC 27699-0601  
Telephone: (919) 807-7500  
Fax: (919) 807-7647  
Internet  
<http://www.ncauditor.net>

## AUDITOR'S TRANSMITTAL

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The Honorable Michael F. Easley, Governor  
The General Assembly of North Carolina  
The Honorable Todd W. Tilley, Clerk of Superior Court

This report presents the results of our fiscal control audit of the Perquimans County Clerk of Superior Court. Our work was performed by authority of Article 5A of Chapter 147 of the *North Carolina General Statutes* and was conducted in accordance with the standards contained in *Government Auditing Standards* issued by the Comptroller General of the United States. The objective of a fiscal control audit is to gather and evaluate evidence about internal control over selected fiscal matters, such as financial accounting and reporting; compliance with finance-related laws and regulations; and/or management of financial resources.

The results of our audit disclosed deficiencies in internal control and instances of noncompliance that are considered reportable under *Government Auditing Standards*. These matters are described in the Audit Finding and Recommendation section of this report.

*North Carolina General Statutes* require the State Auditor to make audit reports available to the public. Copies of audit reports issued by the Office of the State Auditor may be obtained through one of the options listed in the back of this report.

*Leslie W. Merritt, Jr.*

Leslie W. Merritt, Jr., CPA, CFP  
State Auditor

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## **BACKGROUND INFORMATION**

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The office of the Clerk of Superior Court is created by the North Carolina Constitution which mandates that there be a Clerk of Superior Court for each county. Under the constitution, it is the responsibility of the General Assembly to prescribe jurisdiction and the powers of the Clerk. Laws of the General Assembly regarding clerks must be uniformly applied in every county in the State.

Voters of each county elect the Clerk of Superior Court to a four-year term. Clerks are paid by the State, with their salaries scaled in accordance with the population of their counties. The Clerk appoints the assistants, deputies and employees in his or her office. The number of assistants and deputies that each clerk may employ varies from county to county depending on the volume of business. Assistant and deputy clerks are paid on a salary schedule fixed by the Administrative Office of the Courts based on education and years of service in the Clerk's office; the maximum and minimum salaries within that scale are fixed by the General Assembly.

The responsibilities of the Clerk are numerous and varied. The Clerk, as a judicial officer of the Superior Court, has judicial responsibilities. The Clerk is judge of probate; that is, the Clerk handles the probate of wills (proceedings to determine if a paper writing is a valid will) and the administration of estates of decedents, minors and incompetents. The Clerk also hears a variety of special proceedings such as adoptions, incompetency determinations and partitions of land and is empowered to issue arrest and search warrants and to exercise the same powers as a magistrate with respect to taking pleas of guilty to minor littering, traffic, wildlife, boating, marine fisheries, alcoholic beverage, State park recreation and worthless-check offenses.

The Clerk is also responsible for all clerical and record-keeping functions of the Superior Court and District Court. The Clerk operates a unified record-keeping system for all civil actions, special proceedings, estates, criminal actions, juvenile actions, minutes of the court, judgments, liens, lis pendens, and numerous other records required by law. The Clerk maintains the judgment docket, is custodian of evidence in civil and criminal trials, and issues civil summons and subpoenas. In addition, the Clerk invests money received and held by his or her office in trust and receives and administers insurance or other money on behalf of minors and incapacitated adults.

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## **OBJECTIVES, SCOPE, METHODOLOGY, AND RESULTS**

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### **OBJECTIVES**

As authorized by Article 5A of Chapter 147 of the *North Carolina General Statutes* and in accordance with the standards contained in *Government Auditing Standards* issued by the Comptroller General of the United States, we have conducted a fiscal control audit at the Perquimans County Clerk of Superior Court.

The objective of a fiscal control audit is to gather and evaluate evidence about internal control over selected fiscal matters, such as financial accounting and reporting; compliance with finance-related laws and regulations; and/or management of financial resources. Our audit does not provide a basis for issuing an opinion on internal control, and consequently, we have not issued such an opinion.

Management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that relevant objectives are achieved. Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

### **SCOPE**

Our audit scope covered the period February 1, 2007 through July 31, 2007. During our audit, we considered internal control related to the following accounts and control objectives:

*Cash and Cash Equivalents* - This classification includes change funds and cash on deposit with private bank accounts. We examined internal controls designed to ensure that the Clerk properly safeguards and accounts for these assets. As of July 31, 2007, the Clerk had \$396,246.31 in Cash and Cash Equivalents.

*Investments* - This classification includes savings, money market accounts, and certificates of deposit. We examined internal control designed to ensure that the Clerk properly safeguards and accounts for these assets. We also examined evidence to support compliance with finance-related laws and regulations over these assets. These laws and regulations set limits on authorized investments, set timing requirements for investing funds, provide for the Clerk to receive a fee for administering the investments, and provide for allocation of interest to the beneficial owner or owners of the funds. As of July 31, 2007, the Clerk had \$382,108.32 in Investments.

*Trusts* - This classification includes funds held by the Clerk for minors, incapacitated adults, and others according to the terms of a court order, will or deed. We examined internal controls designed to ensure that the Clerk properly safeguards and accounts for these funds. We also examined evidence to support compliance with finance-

## **OBJECTIVES, SCOPE, METHODOLOGY, AND RESULTS (CONCLUDED)**

related laws and regulations. These laws and regulations set guidelines for the receipt, administration and disbursement of these accounts. As of July 31, 2007, the Clerk had \$521,353.43 in Trust accounts.

*Deposits Payable* – This classification includes funds deposited with the Clerk pending the filing of a claim and the entry of an order by the Clerk or a Judge determining the persons to whom the funds are to be paid. We examined evidence to support compliance with finance-related laws and regulations. These laws and regulations set timing requirements for investing funds. As of July 31, 2007, the Clerk had \$187,739.11 in Deposits Payable accounts.

### **METHODOLOGY**

To accomplish our audit objectives, we gained an understanding of internal controls, performed tests of control effectiveness, and/or performed direct tests of the accounts and transactions as we considered necessary in the circumstances. Specifically, we performed procedures such as interviewing personnel, observing operations, reviewing policies, analyzing accounting records and examining documentation supporting recorded transactions and balances.

### **RESULTS**

The results of our audit disclosed deficiencies in internal controls and instances of noncompliance that are considered reportable under *Government Auditing Standards*. These items are described in the Audit Finding and Recommendation section of this report.



## AUDIT FINDING AND RECOMMENDATION

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### UNTIMELY INVESTMENTS

The Clerk's Office did not monitor its accounts to ensure that they were invested timely as required by law. In addition to noncompliance with *North Carolina General Statutes*, this also results in lost interest income for the owner of the deposits.

According to *North Carolina General Statute 7A-112(b)*, "money in a single account in excess of \$2,000 received by the Clerk that is expected to remain on deposit with the Clerk in excess of 6 months shall be invested by the Clerk within 60 days of receipt in investments." We identified nine cases where deposits over \$2,000 were held in the checking account for more than six months. We also noted one case where a deposit over \$2,000 for a minor child was still being held in the checking account after 90 days, even though it clearly was going to remain on deposit for more than six months.

*Recommendation:* The Clerk's Office should review accounts routinely to ensure that investments are made timely as required by law. As soon as it becomes evident that a deposit will be held for more than six months, it should be invested.

*Clerk's Response:* In general, the funds in question were surplus funds deposited with the Clerk to be disbursed to rightful owners as claimed. We did not expect to hold them greater than six months; so, we did not invest them within sixty days as dictated in the general statute referenced. Retrospectively, we did hold them longer; however, that was not expected originally. Our office did review them periodically for potential disbursement and/or investment, but each time, it was expected that they would be timely disbursed to the owners. Since that time, they have either been invested or investment is in process, or disbursed.

In the minor's case referenced, there were extenuating circumstances in which more money was expected to be receipted. And, essentially, we did not expect to hold the money longer than six months, but expected to release the funds to the minor's guardian per procedure, once one was appointed. Additionally, we did not have some of the minor's personal information required to invest funds. These funds were invested September 27, 2007.

Per General Statute 7A-308.1(2), we are required to take 5% of the funds receipted for the State for administrative costs for each investment made, prior to investment. If the investment does not earn enough interest to cover this 5% fee over the life of the investment, we must recoup the difference because the owner(s) are guaranteed the original principal or amount receipted into the CSC's office for the individual(s). If these funds were invested but then quickly disbursed as was originally expected, they would not have earned enough interest to cover this 5% administrative fee and there would not have been any interest lost because of the guarantee stated.

## **AUDIT FINDINGS AND RECOMMENDATIONS (CONCLUDED)**

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In conclusion, we will continue to closely monitor all funds \$2000 and greater for proper investment per general statute, as recommended by the State Auditor.

## ORDERING INFORMATION

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Audit reports issued by the Office of the State Auditor can be obtained from the web site at [www.ncauditor.net](http://www.ncauditor.net). Also, parties may register on the web site to receive automatic email notification whenever reports of interest are issued. Otherwise, copies of audit reports may be obtained by contacting the:

Office of the State Auditor  
State of North Carolina  
2 South Salisbury Street  
20601 Mail Service Center  
Raleigh, North Carolina 27699-0601

Telephone: 919/807-7500

Facsimile: 919/807-7647