

# STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA



## BURKE COUNTY CLERK OF SUPERIOR COURT

MORGANTON, NORTH CAROLINA

FINANCIAL RELATED AUDIT

JUNE 2017



**NCOSA**  
The Taxpayers' Watchdog

STATE OF NORTH CAROLINA  
**Office of the State Auditor**



**Beth A. Wood, CPA**  
State Auditor

2 S. Salisbury Street  
20601 Mail Service Center  
Raleigh, NC 27699-0600  
Telephone: (919) 807-7500  
Fax: (919) 807-7647  
<http://www.ncauditor.net>

## AUDITOR'S TRANSMITTAL

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June 5, 2017

The Honorable Roy Cooper, Governor  
The General Assembly of North Carolina  
The Honorable Mabel H. Lowman, Burke County Clerk of Superior Court

This report presents the results of our financial related audit at Burke 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 performance audit standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

The results of our audit identified a deficiency in internal control and an instance of noncompliance that is considered reportable under *Government Auditing Standards*. This item is described in the *Audit Findings, Recommendations, and Responses* 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.

A handwritten signature in cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA  
State Auditor



**Beth A. Wood, CPA  
State Auditor**

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Article V, Chapter 147 of the North Carolina General Statutes, gives the Auditor broad powers to examine all books, records, files, papers, documents, and financial affairs of every state agency and any organization that receives public funding. The Auditor also has the power to summon people to produce records and to answer questions under oath.

As authorized by Article 5A of Chapter 147 of the *North Carolina General Statutes*, we have conducted a financial related audit at Burke County Clerk of Superior Court. There were no special circumstances that caused us to conduct the audit, but rather it was performed as part of our effort to periodically examine and report on the financial practices of state agencies and institutions.

The voters of each county elect a Clerk of Superior Court for a four-year term. Clerks are responsible for all clerical and record-keeping functions of the superior court and district court. The Clerks' Offices collect, invest, and distribute assets in a fiduciary capacity. For example, the Clerks' Offices collect fines and court costs, hold cash and property bonds, administer estates on behalf of minors, and distribute resources to governmental and private parties as required.

The North Carolina Administrative Office of the Courts (NCAOC) provides statewide support services for the courts, including court programs and management services; information technology; human resources services; financial, legal, and legislative support; and purchasing services. In addition, the NCAOC prepares and administers the court system's budget.

The general objective of this financial related audit was to identify improvements needed in internal control over selected fiscal matters. 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. Errors or fraud may nevertheless occur and not be detected because of the inherent limitations of internal control. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or that compliance with policies and procedures may deteriorate. Our audit does not provide a basis for rendering an opinion on internal control, and consequently, we have not issued such an opinion.

Our audit scope covered the period July 1, 2016 through February 28, 2017. During our audit, we considered internal control related to the following objectives:

*Cash* – The Clerk’s Office collects various fines, fees, and court costs daily, as well as collections for bonds, judgments, and other matters. We examined internal controls designed to ensure that the Clerk properly safeguards and accounts for cash receipts. We also examined internal controls designed to ensure compliance with laws and regulations related to depositing cash receipts. During the audit period, the Clerk collected \$7,412,528 in cash.

*Estates* – The Clerk’s Office ensures all estates are charged an application fee plus an assessment based on the value of the estate’s inventory. An estate inventory is to be filed by the representative of the estate. We examined internal controls designed to ensure that the Clerk properly obtains an inventory for each estate in compliance with laws and regulations. We also examined internal controls designed to ensure compliance with laws and regulations related to the appropriate assessment and collection of estate fees. During the audit period, the Clerk collected \$135,639 in estate fees.

*Bond Forfeitures* – The Clerk’s Office ensures that all motions or orders to set aside bond forfeitures meet specified criteria and are supported by required documentation. We examined internal controls designed to ensure compliance with laws and regulations related to the processing of these bond forfeitures. During the audit period, \$1,321,250 in bond forfeitures were set aside.

To accomplish the audit objectives, auditors gained an understanding of the Clerk's internal control over matters described in the *Audit Objectives and Scope* section of this report and evaluated the design of the internal control. Auditors then performed further audit procedures consisting of tests of control effectiveness and/or substantive procedures that provide evidence about our audit objectives. Specifically, auditors interviewed personnel, observed operations, reviewed policies, analyzed accounting records, and examined documentation supporting recorded transactions and balances, as considered necessary in the circumstances. Whenever sampling was used, we applied a nonstatistical approach, but chose sample sizes comparable to those that would have been determined statistically. As a result, we were able to project our results to the population as applicable but not quantify the sampling risk. This approach was determined to adequately support audit conclusions.

As a basis for evaluating internal control, we applied the internal control guidance contained in professional auditing standards. As discussed in the standards, internal control consists of five interrelated components: (1) control environment, (2) risk assessment, (3) control activities, (4) information and communication, and (5) monitoring.

We conducted this audit in accordance with generally accepted government auditing standards applicable to performance audits. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Based on the results of audit procedures described in the *Methodology* section of this report, auditors identified a deficiency in internal control and an instance of noncompliance that is considered reportable under *Government Auditing Standards*. This item is described in the *Audit Findings, Recommendations, and Responses* section of this report. Management's response is presented after the audit finding. We did not audit the response, and accordingly, we express no opinion on it.

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**FAILURE TO COLLECT ESTATE INVENTORY FEES**

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The Clerk's Office did not collect estate inventory fees in accordance with state law, resulting in delays and potential loss in the collection of estate costs and fees.

Auditors examined 65 of 92 estates in the audit period that required an inventory to be filed. There were eight (12%) estates for which a total of \$934 in estate costs and fees was not collected when the inventory was filed. Additionally, there was no evidence in the files to support fee collection attempts and/or reasons for collection delays.

According to the Clerk, the Office regularly allows personal representatives to delay paying all fees until the assets in the estate are sold or the final inventory is submitted.

*North Carolina General Statute 7A-307(a)(2)* requires the Clerk's Office to calculate, assess, and collect the estate fees at the time the inventory is filed.

*Recommendation:* The Clerk's Office should follow state law to ensure appropriate action is taken to collect estate costs and fees each time an inventory is filed. In addition, the Clerk's Office should maintain documentation in the file to support fee collection attempts from the personal representative at the time of the inventory filing.

*Clerk's Response:* See page 6 for the Clerk's response to this finding.

## CLERK'S RESPONSE



*State of North Carolina*  
*General Court of Justice*  
**CLERK OF SUPERIOR COURT**

**BURKE COUNTY**

201 S. GREEN STREET  
 P.O. BOX 796  
 MORGANTON, NC 28680  
 PHONE: (828) 433-3200 • FAX: (828) 433-3201

MABEL H. LOWMAN, CLERK  
 EX OFFICIO JUDGE OF PROBATE

May 23, 2017

ROBERT C. ERVIN  
 RESIDENT JUDGE

**TITLE OF OSA AUDIT FINDING - FAILURE TO COLLECT ESTATE INVENTORY FEES**

**OSA Recommendations:**

The Clerk's Office should follow state law to ensure appropriate action is taken to collect estate costs and fees each time an inventory is filed. In addition, the Clerk's Office should maintain documentation in the file to support fee collection attempts from the personal representative at the time of the inventory filing.

**Agency Response:**

The Clerk's Office is in agreement with the OSA Audit Finding and Recommendations with no disagreement that the Estates Division should calculate, assess, and collect the estate fees at the time the inventory is filed pursuant to NCGS 7A-307(a)(2).

**Explanation of Corrective Action:**

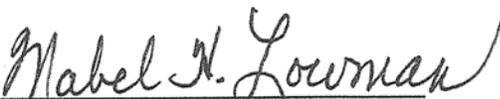
1. That since review of the Audit findings, the Estates Division has immediately collected all filing fees due and payable pursuant to the eight (12%) of estates for which a total of \$934.00 was outstanding.
2. That a complete review of our 2016 and 2017 cases is being conducted to check for outstanding fees to make sure we are in current compliance.
3. That a Memorandum to our estates attorneys was duplicated from December 14, 2015 and re-circulated with priority status as to the collection of fees and costs at the time of filing any pleadings pursuant to NCGS 7A-307(a)(2).
4. That notification was given to our Public Administrator indicating that a Motion/Order should be filed in estates in order to defer payment of costs and filing fees until such time as real estate is sold. A template of a Motion and Proposed Order has been drafted and approved by the Clerk and will be filed in said cases in the future.
5. That the Estates Division has previously implemented an extra safeguard in effect for several years now to check all files at the time of the Final Accounting. This allows for an additional thorough review of the entire file against a Final Checklist for any outstanding costs and/or service fees that may have been uncollected; thereby, eliminating any "potential loss" for collection of fees.

## TITLE OF OSA AUDIT FINDING - FAILURE TO COLLECT ESTATE INVENTORY FEES

May 23, 2017

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The estimated date for implementing the corrective action identified above is no later than May 31, 2017 and ongoing as to Items 2 and 5 and that the Assistant Clerk for the Estates Division will be responsible for making it happen.

  
MABEL H. LOWMAN, CLERK  
BURKE COUNTY

# ORDERING INFORMATION

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Office of the State Auditor  
State of North Carolina  
2 South Salisbury Street  
20601 Mail Service Center  
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For additional information contact:  
Tim Hoegemeyer  
General Counsel  
**919-807-7670**

